

for any person, firm or corporation to pay to the State the principal and interest due upon any obligation given for any land included in this Act, and such person, firm or corporation should make such payment, the Commissioner of the General Land Office shall be authorized upon the written request of such owner, duly acknowledged in the manner required for the conveyance of real estate, to execute, acknowledge and deliver a written transfer of the indebtedness held by the State, to such person, firm or corporation as may be authorized to receive the transfer; provided, if the land claimed by the one representing himself to be the owner, should be held under such evidence of title as the law or rules of the General Land Office will not authorize or permit to be filed in said Land Office, then and in that event, the said Commissioner may, for the purpose of executing the assignment or transfer herein provided for, admit the owner to be such person as the person, firm or corporation paying the indebtedness shall admit to be the owner, and upon such admission the instrument of transfer shall be executed; provided further, that nothing herein shall be construed to change in any particular whatever, the law or rules that obtain in the General Land Office relative to titles to land and the issuance of patents thereon.

Sec. 3. Any person, firm or corporation that shall pay to the State the balance due upon any land included in this Act at the request of the owner as provided herein, shall be subrogated to all the rights, liens and remedies held by the State to secure and enforce the payment of the amount of principal and interest so paid to the State.

Sec. 4. The fact that owners of public lands can not now obtain benefits from the Federal Land Bank, and that there is no law authorizing the transfer of an indebtedness held by the State of Texas to persons, firms or corporations furnishing funds to take up the unpaid interest and purchase money therefor, creates an emergency, and an imperative public necessity exists requiring that the constitutional rule requiring that bills be read on three several days in each house of the Legislature be suspended, and that this Act take effect from and after its passage, and it is so enacted.

SEVENTH DAY.

Senate Chamber,
Austin, Texas,

Monday, September 10, 1917.

The Senate met at 9:30 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Henderson.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Robbins.
Dayton.	Smith.
Dean.	Strickland.
Decherd.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.

Absent.

Parr.

Absent—Excused.

Floyd.	Hopkins.
Gibson.	McCollum.

Prayer by Rev. H. W. Knickerbocker of Austin.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Excused.

Senator Hopkins for today, on account of important business, on motion of Senator Bailey.

Senator Floyd for today, on account of important business, on motion of Senator Smith.

Senator McCollum for today, on account of important business, on motion of Senator McNealus.

Petitions and Memorials.

See Appendix.

Committee Reports.

See Appendix.

Morning call concluded.

Senate Bills No. 1 and No. 2.

By unanimous consent and on request of Senator Henderson, Senate Bills No. 1 and No. 2, which had heretofore been set as special orders for this hour, were laid on the table subject to call.

Senate Bill No. 3.—As Special Order.

Senator McNealus moved that Senate Bill No. 3 be set as special order for next Wednesday, after the conclusion of the morning call.

Senator Page moved to amend the motion so as to request the Attorney General to render an opinion as to the constitutionality of the bill.

Senator McNealus moved to table the amendment, which motion was lost.

The amendment was then adopted.

The motion to set the bill as a special order was then adopted.

The Senate as Court of Impeachment.

The Chair announced that the hour, 10 o'clock a. m., to which the Court had recessed had now arrived, and that the Court is now reconvened for the continuation of the trial of Governor Jas. E. Ferguson.

PROCEEDINGS.

Monday, September 10, 1917.

Morning Session.

Senate Chamber, Austin, Texas.

(Pursuant to adjournment, the Senate reconvened at 10:00 o'clock a. m.)

Honorable W. L. Dean, President Pro Tempore, Presiding.

The Board of Managers and their Counsel were present. The Respondent and his Counsel were present.

The Chair: Gentlemen, the hour has arrived for the convening of the Senate as a High Court of Impeachment. The Sergeant-at-Arms will see that the bar is cleared of all except those who have a right there, as under the previous instructions of the Chair; and the Senate Chamber will be cleared of all except those who have the right to remain.

And the Sergeant-at-Arms will convene the Court of Impeachment—will announce the convening of the Court of Impeachment.

Sergeant-at-Arms (at door of the Senate): Oyez! Oyez! Oyez! The Senate sitting as a Court of Impeachment is now in session.

The Chair: Let the Court be in order now. Are you ready to proceed, gentlemen?

General Crane: Call Mr. Kittrell, Mr. Sergeant-at-Arms, please.

Thereupon, Proponent's witness,

NORMAN G. KITTRELL, JR., ESQ.,

was presented at the bar of the Court, and was administered the following oath by the Chair, viz:

"You do solemnly swear that the evidence you shall give upon this hearing by the Senate of Texas in regard to the impeachment charges against James E. Ferguson shall be the truth, the whole truth, and nothing but the truth, so help you God?" and in answer to questions propounded, testified as follows, to wit:

Direct Examination.

By Mr. Harris.

Q. State your name?

A. Norman G. Kittrell, Jr.

Q. Are you an attorney?

A. I am.

Q. Practicing law at Houston?

A. I am.

Q. Did you represent Mr. Mansfield?

A. I did in the case of the Dayton Lumber Company, or, rather, the case of Mansfield vs. West.

A Senator: A little louder, Mr. Kittrell.

Q. A little louder?

A. The case of Mansfield vs. West.

Q. As such attorney, did you have any communication with the Governor in reference to the escrow fund deposited in the Temple State Bank?

A. Numerous conversations.

Q. Did you ever write to him?

A. I wrote to him one letter, I believe.

Q. What was that asking for, in that letter?

A. I wrote him a letter enclosing a letter to the Temple State Bank; I asked the Temple State Bank for a statement of the fund account, as to how much money had been put

in, and as to the interest they calculated was due on it.

Q. Did you secure a statement of that account?

A. No, I did not hear from the Governor in regard to that—no, well, I take that back, I heard from him, he said I would get it, but I didn't receive it from him.

Q. When did he say he would get it?

A. I don't think he stated any definite time.

Q. Did you the following day go to Temple?

A. I was in North Texas some three weeks after that, at a farm which is in my hands as receiver, a short distance north of Temple; I dropped off at Temple and asked the bank for a statement of this account.

Q. Did you secure it?

A. The bank—

Mr. Hanger: Well, we object to his stating what the bank said.

Mr. Harris: I expect to connect the Governor with the statement of the bank.

Q. What did the bank say?

Mr. Hanger: Wait a minute. (To the Chair): Did you overrule the objection?

The Chair: The objection is sustained.

Q. Did you, following that, make any appeal to the Governor?

A. I had a conversation with the Governor on the same day in Temple.

Q. Did he come to Temple, or was he already there?

A. He came to Temple.

Q. Did you get a statement from the bank?

A. I did not.

Q. The Governor came to Temple on what train?

A. The Katy, arrived there about 1:30.

Q. After the Governor arrived there, did you have a conference with him in reference to securing a statement of that account?

A. I did.

Q. What did he say, and what did you say?

A. Well, the Governor seemed to be a little bit indignant that I should be asking for a statement, and, as he said—sort of—I don't know whether he said "sneaking," or some sort of word like that, around in his business. I says, "Governor, you are wrong about that; this is an

escrow account, I am representing one of the parties, and I want a statement." "Well," he says, "you cannot get the statement until I am ready to give it to you." He says, "You don't think those boys"—no, "You wouldn't be big enough fool to think those boys would give you a statement unless I told them to do it?" "Well," I said, "I didn't assume that, Governor."

Q. What did he say to that?

A. Well, he said, "No, I am an agent of the bank, and you do not get the statement."

Q. Did the Governor know you were representing Mr. Mansfield?

A. Oh, yes, the Governor knew that I had been representing Mr. Mansfield all along.

Q. He told you you could not get the statement?

A. Yes, sir.

Q. When was that?

A. Oh, along something over two months ago, roughly.

Q. Did you see the Governor again?

A. I saw the Governor in his office, I can't recall the date, it was when the indictments were handed down, I remember that.

Q. That was the date? In Travis County?

A. Yes, sir.

Senator Bee: I cannot hear the witness. A little louder.

Q. A little louder?

The Chair: A little louder.

Mr. Harris: Did the gentlemen hear me?

Senator Bee. Yes; I did not hear Mr. Kittrell.

Q. Did you talk to the Governor on that day?

A. Yes, he granted me an interview, very courteously.

Q. What did he say on that day about this account?

A. Well, he said he was very much engaged with his private matters—I mean his public matters, I should say, had no time to fool with private matters, and he was not going to do anything about it until he got through with those troubles of the Governor's office.

Q. Did he say how long it would take?

A. Well, he said he could get it in probably two months, maybe three months, it depended on how long his troubles took.

Q. Did you again ask him for a statement?

A. I again asked him for a statement.

Q. Did you know at that time that account had been used by the Governor and was not in the bank—in the bank to his credit?

A. I don't think I knew that at that time, no.

Q. When and where did you first learn of that fact?

A. Well, my—not direct knowledge of it I didn't have at that time, except from the newspapers.

Q. Disclosed by the hearing here?

A. In the House, yes, sir.

Q. Something was said about a political suit being filed. Will you please tell any conversation you had with the Governor—

Mr. Hanger: Mr. Chairman—

Q. —with reference to the filing of that suit?

A. Yes, sir—

Mr. Hanger: I don't want to interrupt with any needless objections. Of course, I understood the purpose for which the testimony was admitted of Mr. Sterling and Mr. Mansfield, was to disclose only whether or not that money was such a fund as could be used by the Governor, or any part of it. If that was the purpose of that testimony, it does not seem apparent that this testimony by Mr. Kittrell would be relevant to that issue. We make that suggestion.

Mr. Harris: Does that refer to the question I am now asking, Senator?

Mr. Hanger: The entire inquiry of Mr. Kittrell, it seems to us, does not bear upon the question, and is not relevant to the question of whether or not there was any right existing in the Governor to use that fund to pay his debts, or whether there was any right in the Temple State Bank to use that fund for that purpose, and it seems to us that any other inquiry is outside of the question and the purpose for which the testimony the other day on the subject was introduced. We make that objection.

The Chair (to Mr. Harris): What relevancy does that bear to the question of the right of the Governor to draw on that fund, Mr. Harris?

Mr. Harris: Are you referring to the question I just asked?

Mr. Hanger: The entire inquiry.

Mr. Harris: Well, I think this, your Honor please, there was an account up there, an escrow account; it has been proven that the entire account was drawn out, down to \$50, or something like that, and the fact that the Governor would not furnish a statement, or permit the bank to furnish a statement of that to the interested parties to the agreement, disclosed the fact that he had recognized he had no right to use that money; as well, secondly, his statement that the boys up there had no authority or wouldn't do anything except by his consent showed he controlled that bank, and used that control to prevent the statement being given.

The Chair: Well, that part of it you refer to, that is not in this record, and now what does this have to bear on the issue?

Mr. Harris: There was some statement by the Governor in reference to that contract made by these gentlemen.

The Chair: That is not in this record.

Mr. Harris: Well, that part we don't care anything about now, and if that is objected to, we will wait until that is brought out. I do not think it is admissible at this time.

The Chair: I sustain the objection as asked.

Mr. Harris: That is all right. That is all.

Cross Examination By Mr. Hanger.

Q. Mr. Kittrell, at the time of the interview in the Governor's office, you said to the Governor, did you not, that your information from Mr. Mansfield was that he did not think he owed the Houston National Exchange Bank a cent?

A. No, that is not—

A Senator: Louder.

A. That is not the statement of the situation as I recall it at this time, Mr. Hanger. What I did say to the Governor was that we had taken the matter up with Mr. Fox and Mr. Fox had turned the contracts over to us, the originals of which I had, and that Mr. Fox had told us to go ahead, that he wouldn't have anything to do with the suit.

Q. You did not tell him that that debt had been paid and that Mr.

Mansfield did not then owe the bank a cent?

A. Oh, no. But what I did say—

Q. (Interrupting.) Yes, I understand?

A. What I did say was that if there was any doubt in our minds about our right to go ahead with the transaction, that we would communicate with Mr. Fox.

Q. Did you tell the Governor on that occasion that you had personally called on the bank, and the bank had assured you that Mr. Mansfield did not owe them anything?

A. No, sir.

Q. You did not tell him?

A. I told them—I said this though, that I had been to Mr. Fox myself, and Mr. Fox had told me that he was the owner of it as collateral, as I understood it.

Q. Yes?

A. The owner of it as collateral, had the right to enforce it, he told me that he wouldn't do it, that if we wanted to go ahead, we had to do the enforcing, and that, therefore, we had the authority to make the settlement with the Governor.

Q. The Governor told you, did he not, Mr. Kittrell, that he was perfectly willing to make a settlement of this matter, but that at this particular time they had indicted him, were talking about instituting impeachment proceedings, that he had all that he could possibly attend to without—and wouldn't have any time to devote to private affairs until those things were out of the way?

A. Unquestionably, he did.

Q. He said it?

A. Unquestionably, he did.

Q. That is all.

Re-direct Examination

By Mr. Harris.

Q. At the time you talked with him at Temple, had he either been indicted, or were impeachment proceedings instituted against him?

A. Not so far as I know, at that time.

Q. Did he at any of these conversations with you claim that Mr. Mansfield was not entitled to any part of this money?

A. No, except, to be perfectly frank with the Governor, at the time we reached a definite parting of the ways, he says, "I am going to make a claim for services here that will eat Mans-

field up, if you fellows do not let me alone."

A Senator: Would do what?

A. Would make a demand for personal services that would eat Mansfield up if we did not let him alone.

Q. If you did not let him alone?

A. If we did not let him alone until he got through with his gubernatorial troubles.

Re-cross Examination

By Mr. Hanger.

Q. He said he did not charge a cent for his personal services up to that time?

A. Yes. His contract did not provide for it.

Q. He said, though, he did not charge a cent for his personal services up to that time, in that conversation?

A. Yes, sir.

Q. The date of that first time you saw him at Temple, that was about two months ago?

A. Mr. Hanger, that is roughly stated.

Q. I understand that. Is there any way of arriving at the exact date?

A. I could by going to my check book in which I charged the expenses of the estate.

Q. Yes. This is the 10th day of September, is it?

A. Yes, sir.

Q. Do you think this would be about the 10th day of July, would that be your judgment?

A. That would be my judgment, yes, but I am not absolutely clear; I could give the exact date by going to my check book.

Q. Yes, that is all right. That is all I want.

Re-direct Examination

By Mr. Harris.

Q. He asked you about services in that case; did Mr. Mansfield render any personal services in that case, to your personal knowledge?

A. Up to 1912, I don't know anything about it, but since then, yes.

Q. Isn't it a fact that Mr. Mansfield, at the request of his attorney, Mr. T. Watt Gregory, made an argument before the Court of Civil Appeals in that case?

A. Yes, sir, I think he did, yes, sir—but that would be hearsay on my part.

Q. Yes. That is all.

(Witness excused.)

Thereupon, the Proponents called,

H. C. ODLE, ESQ.,

who was administered the following oath by the Chair, viz.:

"Do you solemnly swear that the evidence you shall give upon this hearing by the Senate of Texas, in regard to impeachment charges against James E. Ferguson, shall be the truth, the whole truth, and nothing but the truth, so help you God?"

And in answer to questions propounded, testified as follows, to wit:

Direct Examination

By Mr. Harris.

Q. State your name to the Court?

A. H. C. Odle.

Q. What official position do you hold?

A. I am one of the State Highway Commissioners.

Q. By whose appointment?

A. By Governor Ferguson's.

Q. Did you have a talk—a little louder, please—did you have a talk with Governor Ferguson during the early part of June in his office? If so, what was said at that conversation, and how do you place the date?

A. Well, if I had a talk with him in June, why it was the 4th of June—I haven't been in his office since that time.

A Senator: Mr. President, will the witness speak a little louder?

Senator Hudspeth: Mr. President, we cannot hear the witness back here?

A. All right, excuse me, I haven't been in his office since the 4th of June, and if there was a conversation at that time it was on the 4th of June.

Q. Well, did you have any conversation with him on that date in which he made a statement in reference to Wilbur Allen, Regent of the State University?

A. Yes, sir.

Q. You did?

A. Yes, sir.

Q. Well, just what did he say in reference to Wilbur Allen?

A. Well, I don't know as I can remember the exact words, but it was that Wilbur Allen had solicited the appointment as Regent of the University.

Q. And what else?

A. And wasn't loyal, wasn't the man he thought he was, or something to that effect. Now, I cannot give the exact words, but something

to the effect that Wilbur wasn't—
Q. Wasn't loyal to him at that time?

A. Wasn't loyal—I don't know—

Q. Did he state he couldn't place Allen at that time?

Mr. Hanger: Do not lead him.

A. I don't think so.

Q. Your remembrance of the statement is he was not loyal?

A. That is about the substance of it. And I did not repeat the conversation to anyone.

Q. And as you expressed it to me, you had not repeated it, and didn't know where I found it out?

A. No sir—I didn't talk to anybody.

Q. That was on June 4th?

A. That was on June 4th. Now, it might have been about a month or six weeks before that that I had the conversation, but I think it was in his office, and I think it was on the 4th of June.

Q. That is your best recollection?

A. That is my best recollection.

Q. Do you recall just a few days prior to that, there had been a meeting at Galveston?

A. No. I don't know when that meeting was, I have no way of fixing that.

Q. That will be all.

Mr. Hanger: That is all—that is all.

The Chair: Stand aside.

Mr. Harris: That is all, Mr. Odle.

(Witness excused).

Mr. Harris: We will take Mr. F. A. Gross.

(Mr. F. A. Gross presented himself to the Chair).

The Chair: Give your name to the Secretary.

Thereupon, Proponent's witness,

F. A. GROSS, ESQ.,

was administered the following oath by the Chair, viz.:

"You do solemnly swear that the evidence you will give upon this hearing by the Senate of Texas in reference to impeachment charges against James E. Ferguson, shall be the truth, the whole truth, and nothing but the truth, so help you God?"

And in answer to questions propounded testified as follows, to wit:

Direct Examination
By Mr. Harris.

Q. State your name to the Court.
A. F. A. Gross.
Q. Speak loud, you will have to speak loud.
A. F. A. Gross.
Q. What is your business, Mr. Gross?
A. Building.
Q. Did you build the Canyon City Normal?
A. We did, yes, sir.
Q. Under contract?
A. Yes, sir.
Q. When?
A. Two years ago.
Q. Two years ago?
A. Yes, sir.
Q. A little louder. Was there any man on that job appointed by the Governor who passed on your estimates?
A. Yes, sir, there was.
Q. Who was that man?
A. Hendrickson.
The Chair: Louder, Mr. Gross, please?
Q. A little louder?
A. Mr. Hendrickson.
Q. Mr. Hendrickson?
A. Yes, sir.
Q. What was he?
A. He was Inspector of Masonry.
Q. He was Inspector of Masonry?
A. Yes, sir.
Q. Did you ever send an estimate in here for payment that he had not previously approved?
A. Why, I don't recollect.
Q. You do not recollect of sending any?
A. The estimates—the estimates were made up, and sometimes they were approved by him, and sometimes they were not.
Q. Were they submitted to the Governor and the school board, and board of the school?
A. Yes, sir.
Q. Were they approved by them?
A. Yes, sir.
Q. Would your collections be made here?
A. Yes, sir.
Q. When your estimates were approved in Austin?
A. Yes, sir.
Q. Were they delayed?
A. They were.
Q. Were payments delayed any?
A. They were, yes, sir.
Q. To what extent were they delayed, how delayed and why delayed,

and to what expense were you put by reason of that fact—just in your own way?

A. Why, there was some money that the Governor held, it seems to me, personally, and he always wrote a check and turned it over to the Treasurer.

The Chair. A little louder, Mr. Gross, please.

Q. A little louder. You said there was some money that the Governor held personally, and he always wrote a check and turned it over to the Treasurer?

Mr. Hanger: One minute. Mr. Gross. Were you here or at Canyon City?

A. Why, I was in Galveston.

Mr. Hanger: Were you here when these collections were made?

A. I had to come several times to collect it.

Mr. Hanger: Well, all right.

A. Yes, sir.

Q. Go ahead?

A. And the estimates went in here several times, and I waited for the return; they were going to forward a check to us, and they reported that the Governor had not deposited the money.

Mr. Hanger: Well, we object to that, to his—to the reports.

The Chair: Just state what you know, Mr. Gross.

Mr. Hanger: Well, let him go, let him go.

Q. Oh, yes. Who made that report to you?

A. The warrant clerk in the Auditor's office.

Q. In the Treasurer's office, you mean?

A. No, in—

Q. In the Comptroller's office?

A. In the Comptroller's office, that is right.

Q. I see. Now, how many trips did you have to make over here on that account?

A. Well, I made it every first of the month after that, when I saw that I couldn't obtain it, I went in, went to the Governor myself and obtained a check from him when he was here, and if he was not here, I went in and obtained it from his secretary.

Q. You went to the Governor personally and asked for a check?

A. Yes, sir.

Q. And carried it to the Treas-

urer yourself, to deposit—or check on the Treasurer?

A. I went in there. I waited for a check, and he sent the check over.

Q. How much approximately did you spend on the trips coming over here?

Mr. Hanger: We object to that.

Mr. Harris: We expect to prove, if your Honor please, that the money not being in the treasury, that he had to make numerous trips here at large expense.

Mr. Hanger: He said he made numerous trips, but the amount of his expenditures, I submit, are immaterial—unless the Legislature wants to give it back to him.

The Chair: The number of trips is material, and I think the Chair will take notice that it cost him something.

Mr. Harris: Yes, sir, all right.

Q. After the contract was completed, did you have any other conversation with the Governor?

A. Yes, sir, I did.

Q. With reference to this account?

A. Yes, sir.

Q. And his use of the money, or the whole money being deposited in the bank?

A. Yes, sir.

Q. What was that conversation, who was present, and what was said?

A. Why, the Chairman, I think his name was Mr. Gross, something like that—

The Chair: Mr. Gross, I wish you would speak louder.

Q. The Chairman of the Controlling Board of that School, Regents, or whatever it is?

A. Yes, sir.

Q. All right?

A. I went with him to the Governor, there wasn't enough money left to pay the balance of my contract, and while we were in there, why, Mr.—the Chairman said to the Governor, asked about some sort of interest he should have turned over to this part—this fund, and he wasn't able to procure that, but the Governor said—

Q. (Interrupting.) What did the Governor state about paying any interest, or interest being due on that?

A. Well, they simply talked about it, but he gave him to understand he wasn't going to pay any interest on that money.

Q. Gave him to understand he

wasn't going to pay any interest?

A. Yes, sir.

Q. What did he say, then, he would do?

A. Well, the Chairman asked him then how they were going to pay me the balance that was due us, and he told him he would approve a deficiency warrant for the balance.

Q. What was the balance?

A. I don't recollect.

Q. You do not recollect?

A. I haven't looked it up, no.

Q. Did the Governor have to approve any of the money down in the Treasury, was he required to approve any of your drafts and checks?

A. No, sir.

Q. Who did have to approve them, as you recall?

A. Why, the Inspector of Masonry and the Chairman of the Board.

Q. The Inspector of Masonry and the Chairman of the Board?

A. Yes, sir.

Q. And the Comptroller issued the warrants—

A. Yes, sir.

Q. —against the fund?

A. Yes.

Q. That is all.

Cross Examination

By Mr. Hanger.

Q. You had a contract, a separate contract for the main building and the wings, didn't you?

A. Yes, sir.

Q. This insurance money that had been collected was to pay for the main building?

A. Well, I don't know, I couldn't say as to that.

Q. You do not know about that?

A. Well, partly so, it wasn't all.

Q. Don't you know that was true?

A. Well, partly so, yes, sir.

Q. Yes?

A. Yes, sir.

Q. And you wanted a part of that money used to pay you on the wing contract, didn't you?

A. No, sir, we did not.

Q. Didn't you suggest that to him?

A. No, sir.

Q. Didn't you get mad at him because he refused to let you have part of this money that was there to build the main building?

A. No, sir.

Q. Because he would not allow you to use it on the wings, or pay you on the wings?

A. No, sir.

Q. Didn't you tell him in his office that you wanted part of that money to pay you on building the wings?

A. We never had any talk about it.

Q. No talk about that?

A. None whatever, no, sir.

Q. That is not true?

A. No, sir.

Q. Didn't you ask the Board of Managers or the Board of Directors or Regents, or whatever you call them, of the Normal, that had charge of this building, to give you part of that money on the wings?

A. No, sir, never asked them whatever.

Q. Did you ask the Inspector of Masonry to arrange that?

A. No, sir.

Q. Never, did?

A. No, sir.

Q. Nobody?

A. No, sir.

Q. Well, Mr. Gross, what was the total contract for the main building?

A. I don't recollect exactly; it was a hundred and—

Q. Can't you tell about what it was?

A. Yes, I think it was a hundred and—

Senator Bee: I wish the witness would speak a little louder.

The Chair: Talk louder, Mr. Gross.

A. Yes, sir. Probably a hundred and twenty thousand, something like that, as near as I can remember.

Q. Do you know how much there was of this insurance money?

A. I understood it was a hundred thousand dollars.

Q. Just a hundred thousand dollars even, you understood?

A. Why, I couldn't say as to that. I didn't feel enough interested in it really to know exactly the amount.

Q. How much was the contract on the wings?

A. I think it was sixty some odd thousand.

Q. The total contract was \$180,000.00, then, is that right?

A. I don't recollect exactly; somewhere around there, yes, I should think it was, yes.

Q. Now, did you have any controversy with the Building Inspector about the correctness of your estimate?

A. No.

Q. None at all?

A. Except one—except one.

Q. You questioned his estimate, is that right?

A. Not the amount of the estimate, but it was held up, there was one month that they didn't pay it.

Q. It was held up by the Building—by the Inspector of Masonry?

A. No, it wasn't held up by him—well, it was held up by him on order of Governor Ferguson, yes, sir.

Q. How do you know that?

A. That is what he reported.

Q. That is what he said?

A. Yes, sir, that is what he said.

Q. That's all you know about it?

A. Yes, sir, that's all I know about it.

Q. When was that?

A. That was when the first estimate was due on the wings.

Q. You know when that was—was that after the Main building was completed, maybe we can get at it that way?

A. No, sir; no, sir.

Q. It was before it was completed?

A. Yes, sir.

Q. Did you build the wings and the main building within the amount of the contract, or were there some extras?

A. There was a few extras.

Q. How much?

A. I don't recollect; very few though, wasn't very much.

Q. In amount, how much?

A. Well, I wouldn't attempt to say, but I know it was very very small, several hundred dollars, I think.

Q. When was your contract made to build the main building?

A. I think it was made in December.

Q. Of 1912? December 12, 1914, wasn't it?

A. I think it was, yes, sir.

Q. When did you agree to finish it?

A. Agreed to finish it in whatever it was.

General Crane: The contract is the best evidence.

Q. Well, have you got the contract?

A. No, sir, I have not.

Q. Where is it?

A. A copy is filed in our office, and I suppose—

Q. (Interrupting): Do you know what the time limit on the contract was?

A. I don't recollect, no, sir.

Q. Have no remembrance of it?

A. No, sir.

Q. Did you complete it on time?

A. Pretty close to it, yes.

Q. Wasn't it six months over time?

A. No, sir, it was not six months over time.

Q. It was not?

A. No, sir.

Q. When did you finish the building?

A. It was finished—final completion was March or April; I think, in April.

Q. What year?

A. 1916.

Q. You began the 12th—you made the contract the 12th of December and finished in March or April, 1916?

A. Yes, sir.

Q. December 12, 1914, I should have said, and finished in March or April, 1916?

A. That is correct, yes, sir.

Q. Turned the building over and it was accepted then?

A. Yes, sir.

Q. Were all of your warrants or vouchers cashed—paid through the Treasury?

A. Yes, sir.

Q. Did you discount any of them anywhere?

A. We did.

Q. You did discount them?

A. Yes, sir.

Q. Through what institution?

A. Why, whatever you call it. I think it is the Texas State—let's see, Texas Trust Company, I believe.

Q. Texas Trust Company?

A. Yes, sir.

Q. How many of them did you discount through the Texas Trust Company?

A. I think two, I believe.

Q. The head of that institution, Mr. Sparks, was a member of the board, wasn't he?

A. Yes, sir, he was.

Q. How much was the discount?

A. I don't recollect.

Q. How did you come— When was that done, in 1915?

A. Yes, it must have been in 1915.

Q. How did you come to be discounting those through the Texas Trust Company, when the money was right

in the American National Bank or the Temple State Bank, and all you had to do was to present your check and get it cashed?

A. I didn't know it.

Q. You didn't know it?

A. No, sir, no one ever told me.

Q. Who suggested to you that you discount these warrants?

A. Why, I don't recollect; someone here, I believe it was the Architect, Mr. Endress, suggested to me to discount them, I believe.

Q. Uhuh. I see, I see, the architect had been employed by that board?

A. I don't know; I suppose so.

Q. Mr. Goeth and Mr. Sparks were both members of that board, living here in Austin?

A. Yes, sir.

Q. Those were the first two warrants or vouchers, were they?

A. No, sir, it was when the State was on a deficiency: they didn't have the money in the Treasury to pay them.

Q. Well, but was that on the main building or the wing?

A. Both.

Q. Both?

A. They were never kept separate.

Q. You didn't know that that money was right here waiting for you here to be paid on check?

A. Why, it wasn't waiting, no.

Q. It was not?

A. I tried my best to get it, but I couldn't get it.

Q. It was not in the American National Bank and the other bank right there, and the checks were not paid the minute they were deposited?

A. No, sir.

Q. They were not?

A. No, sir.

Q. It wasn't true?

A. No, sir.

Q. You swear to that? Don't you know that that money was in the American National Bank from January 24th, 1915, and the Temple State Bank, every dime of it, from then on until April 11th, 1916, when the final payment was made?

A. What money are you speaking of?

Q. I am talking about the money to pay for the building of the Canyon City Normal.

A. The entire—?

Q. (Interrupting). The \$101,607.18?

A. No, sir, I didn't know it.

Q. Didn't know that?

A. No, sir.

Q. Did you buy any of your material here in Austin?

A. No, sir, we didn't buy anything in Austin.

Q. No hardware?

A. Hardware—Well, the hardware, the board bought the hardware.

Q. Where did they buy it—in Austin?

A. Yes, sir.

Q. From the Tips Hardware Company?

A. I think that is where it came from.

Q. Mr. Goeth is the manager of that concern, isn't he?

A. Why, he seems to be connected with it; I don't know whether he is manager or not. I don't know enough about it to say exactly.

Q. He was also on the grand jury that returned an indictment against the Governor a short time ago, wasn't he?

A. I don't know anything about that.

Q. What did the hardware consist of?

A. The finishing hardware, such as locks, butts and such as that.

Q. Nails and things of that sort?

A. No, sir, no nails.

Q. That was bought elsewhere?

A. Yes, sir.

Q. You don't know now much that hardware bill was?

A. No, sir, I don't.

Q. Oh, that was shipped from Austin to Canyon City, this hardware, was it?

A. I don't think it came from Austin, it came from somewhere else.

Q. Oh, yes, it was shipped from the manufacturers direct to Canyon City?

A. We didn't know; I wasn't interested in it, because we didn't have anything to do with it; we had nothing to do with the hardware whatever.

Q. That was not part of the contract?

A. No, sir.

Q. What did your contract embrace?

A. Why everything except hard-

ware, plumbing, heating and wiring; it included everything else.

Q. Who did the plumbing?

A. Why, some concern from Austin! I don't know—I don't recollect his name.

Q. Donnelly & White?

A. I think that is the name.

Q. They did the plumbing?

A. Yes, sir.

Q. Who put in the heating apparatus?

A. Why, I suppose the same concern; I couldn't say for sure; I don't know.

Q. An Austin concern?

A. I think it was, yes, sir.

Q. Who did the wiring?

A. I don't know.

Q. You don't recall who did the wiring—can't you remember about that?

A. No, I wasn't interested in that.

Q. Were you out there while the work was going on?

A. No, very little; I just made four or five trips out there.

Q. You had a superintendent or foreman?

A. My son was out there. He was in charge of the work.

Q. He was in charge of the work?

A. Yes, sir.

Q. As superintendent?

A. Yes, sir.

Q. Yes. Was the work done by an Austin concern?

A. I couldn't say as to that.

Q. You don't recall about that?

A. No.

Mr. Hanger: That is all.

Re-direct examination

By Mr. Harris.

Q. You didn't have anything to do—?

A. (Interrupting). Nothing whatever.

Q. —with those matters that he was asking you about furnished by Austin concerns?

A. No, sir, nothing whatever.

Q. You did not present an estimate for the payment of those items?

A. No, sir.

Q. At the time you say you discounted—you say two of your estimates were not paid, were you able to collect them?

A. No, sir, I was not able to collect them.

Q. Would you have discounted them if you had been able to collect them?

A. No, sir, I had to pay some interest and I felt very sore about doing it, and they told me that was the only way they could get the money, they told me they were all in the same boat and couldn't get the money.

Q. I see, they were all in the same boat and so you discounted the money to the bank?

A. Yes, sir.

Q. And you did that purely on a business basis?

Mr. Hanger: Don't lead the witness, Mr. Harris.

The Chair: Don't lead the witness.

Senator Page: Mr. President, to save the trouble of writing the question, we want to know who told him that fact.

Mr. Harris: He said he thought the architect told him.

Senator Page: Yes, but we want to know who it was and when it was?

Mr. Harris: Certainly, we will develop anything that you wish to know, Senator.

Senator Page: Yes, sir.

Q. Do you know who suggested it to you?

A. Why, the first, I think, that suggested it was the gentleman in the Auditor's office.

Q. Your idea is the first man that suggested it to you was the gentleman in the Auditor's office?

A. Yes, sir.

Q. That is, that there was a deficiency and you would have to discount your warrants if you wanted to get the money?

A. Yes, sir.

Q. That was the first man. Now, who was the second man?

A. Well, I think the second man was the Architect, he suggested it to me. I felt very sore about the thing that I had to pay interest on the thing, you know, because work is done so close that there isn't much leeway in it.

Q. There isn't much profit?

A. No.

Q. And you wanted your money

A. (Interrupting.) Certainly.

Q. —and he told you you would have to discount it at some bank?

A. Yes, sir.

Q. Is that what he told you?

A. Yes, sir.

Q. That is, if you got your money?

A. Yes, sir.

Q. Did you actually present them for payment before you discounted them—

A. (Interrupting.) Oh, yes, I did.

Q. —at the Treasury?

A. Yes, sir.

Q. What did they tell you there?

A. They told me the same things —there was no money there, they couldn't pay any warrants.

Mr. Hanger: That was the Treasury Department?

The Witness: Yes, sir.

Q. They told you they couldn't pay it?

A. Yes, sir.

Q. Do you know who told you that in the Treasurer's office?

A. Why, Mr. Buck Hardin went over to the Treasurer's office with me; I don't know who the gentleman is in the Treasurer's office—I am not acquainted here. I have been here so seldom, I don't know any of those gentlemen in there.

Q. I see. Then when you failed to get your money you discounted your warrant?

A. Yes, sir.

Q. Fix the time as definitely as you can, if you can do it at all, when this was done. We want all the light we can get on it for the Senators?

A. Well, I think it was in December, November or December—somewhere around there. Now, it might have been—

Q. (Interrupting.) 1916? What year?

A. 1915.

Q. 1915?

A. Yes; I know one remark that I made when—

Q. (Interrupting.) Now, you made the contract on December 12, 1915?

Mr. Hanger: 1914.

Q. 1914—I beg your pardon. You think it was November or December, 1915?

A. Yes, sir.

Q. Now, you made one remark—let's have that, please, Mr. Gross?

A. Why, the remark I made was, "Isn't this money—the money I understand Governor Ferguson has—can't we get that money anyway?"

And they told me, no, we couldn't get it.

Q. You asked them if you couldn't get that money anyway and they told you, no?

Senator Hudspeth: Mr. President, it looks to me like Mr. Harris would bring out the testimony so we can understand it—who are they and where was it and who told him that; we would like to get that testimony as members of this Court.

Mr. Harris: I see. Let's begin at the beginning.

Q. Mr. Gross, who was the first man you talked to?

A. I talked to Buck Hardin.

Q. Now, what did he say to you?

General Crane: Who is he?

A. Buck Hardin was the warrant clerk, I think they called him.

Q. Now, just what did he say to you?

Mr. Hanger: Warrant clerk, where?

A. In the Auditor's office.

Senator Hall: The Comptroller's office?

A. Yes, the Comptroller's office, I mean.

Q. The Comptroller's office. Now, just what did he say to you?

A. Well, he told me that they couldn't pay any money; he says they could issue the warrant, but I couldn't get it—couldn't get the money on it.

Q. Did he say anything else to you?

A. Well, I made the remark, "Can't we draw the cash on the money that Governor Ferguson has; it looks to me like that money ought to be paid over"; but he says—

Q. (Interrupting.) What did he say?

A. He said I couldn't get it.

Q. He said you couldn't get it. Did he make any other statement with reference to it?

A. No, I don't think he did, just that we couldn't get it.

Q. Where did you go next?

A. Well, he went with me to the Treasurer's office and the report there was the same thing.

Q. Now, they want exactly what it was and who said it; and it is proper that they should have it?

A. I don't know who said it, because I am not acquainted around there.

Q. Now, what did Mr. Buck

Hardin say in the Treasurer's office, if anything?

A. Well, he talked to the gentlemen there—

Senator Hudspeth: (Interrupting.) Have him describe the gentlemen.

The witness: Well, there were two or three fellows in there and a lady; I wouldn't know.

Q. Describe the man—could you describe now the man to whom you talked?

A. I could not.

Q. You could not?

A. Absolutely not, no, sir.

Q. Now, what did Hardin say in your presence and hearing?

A. Well, I don't know even that, just the words that were used.

Q. Well, the substance of it, can you give that, what Hardin said to the Treasurer or the man in the Treasury Department?

A. Well, they had some talk about this money, but just, what they said I wouldn't know.

Q. You wouldn't know?

A. I wouldn't recall, no, sir.

Q. What did the man in the Treasurer's office say—you can't give his name?

A. No, I can't.

Q. What did he say?

A. Well, he simply said he couldn't do it.

Q. Simply said he couldn't do it?

A. That is all.

Q. Did he give any reason why he couldn't pay it?

A. No, sir, no reason.

Q. Did you ask him about the Governor's account or the money the Governor had at that time?

A. No, I didn't talk to him; Mr. Buck Hardin spoke to him.

Q. Mr. Buck Hardin is the only man who spoke about the Governor's fund?

A. Yes, sir.

Q. Did you speak to any other man about the Governor's fund, or any other man speak to him about the Governor's fund?

A. Oh, I was very much riled about it; I suppose I made some remarks to Mr. Sparks, or some of these fellows about it—I suppose I did.

Q. You suppose you did?

A. Yes, sir.

Q. Do you remember whether you did?

A. Oh, I faintly remember, yes.

Q. What did you say to them?

A. Well, I told them the same thing—"It seems to me that the money Governor Ferguson has ought to be paid because that is money that is right there and should be paid," I told 'em.

Q. What did they say, do you remember?

A. Well, they told me, "That's up to the Governor."

Q. That is up to the Governor?

A. Yes, sir.

Q. That is your recollection about that?

A. Yes, sir.

Q. Was there any other conversation between you and Mr. Sparks about that?

A. No, sir; no, sir.

Q. Who else did you talk to and when did you talk?

A. I think that is all.

Q. Did you talk to the architect?

A. No, I don't think I said anything to the architect about the money part. I just simply made the remark that it wasn't very pleasant to have to discount these warrants—

Q. I see.

A. —when I understand the money is there, and he says, "Well, that's the only way you will get it," he says, "I had one and I had to discount it," he said.

Q. He said he had one and that he had to discount it?

A. Yes, sir.

Q. This is all he said to you?

A. Yes, sir.

Senator Hudspeth: Who said he had to discount a warrant?

The Witness: Mr. Endress.

Senator Hudspeth: Enders?

The Witness: Mr. Endress.

Q. Now, was there any other man you talked to about this question?

A. No, sir.

Q. And you think—

A. (Interrupting). Pardon me, I think I said something to the Inspector of Masonry.

Q. What did you say to him and he say to you?

A. Oh, I suppose I said the same thing, and he said he didn't know anything about it.

Q. He said he didn't know anything about it?

A. No, he couldn't help me out, he said.

Q. I see. Now, was there anyone else?

A. No, sir, no one else as far as I recall.

Q. And as far as you know, you have testified to everything that was said by anybody about that?

A. Yes, sir.

Mr. Harris: Is there anything else, Senator.

Senator Hudspeth: No, that is all.

Senator Henderson: Mr. President, I don't know that I could write a question to make myself clear and I would like to ask permission—

The Chair: Senator, I think we are going rather too far in not observing the rule about written questions. We have a number of questions in writing to be propounded.

Senator Henderson: Yes, sir, I was going to ask, or rather suggest, a question; I didn't intend to ask the question, but merely to state what I would like to have answered, and that is, I would like to know just what course he had to pursue when he got an estimate. I understand that when he got out there they made an estimate that he was entitled to so much on that, a payment of so much on that estimate, so much work had been done and he was entitled to so much pay for that amount of work up to that time. Now, then, when he went to get his money where did he go and who did he go to?

Mr. Harris: I will develop that, Senator.

Q. Begin at the beginning, Mr. Gross—how did you arrive at an estimate?

A. While we made a list out of the money we had expended and the amount of work done, it had to be itemized; and then the architect checked it, and if he found it right he OK'd it, and of course it was right.

Q. Who was the next man who OK'd it?

A. The next man who OK'd it was the Inspector of Masonry.

Q. To whom did you carry it next after securing the approval of the architect and the Superintendent of Masonry?

A. The next I took it to the Board of Regents; I think that is the title.

Q. The Governing Board, I think that is sufficient?

A. Yes, sir, I took it to them.
Q. Did the whole board approve it, or just the chairman of the board?

A. No, just the chairman.

Q. Do you recall his name?

A. Yes, sir, I think Mr. Sparks.

Q. Mr. Sparks?

A. Yes, sir.

Q. I see. Then to whom did you carry it next?

A. Well, when Mr. Sparks approved it, then I took it to the secretary in Sparks' office—that is, I think he was the secretary of the Board of Regents, and he recorded it in the book and took my affidavit.

Q. He took your affidavit?

A. Yes, sir.

Q. Can you gentlemen hear him?

Senator Caldwell: Is that Mr. Turner.

A. Yes, Mr. Turner, that is correct.

Q. Mr. Turner?

A. Yes, sir.

Q. All right, he copied it in a book?

A. Yes, sir.

Q. And took your affidavit?

A. Yes, sir.

Q. That is, as to the correctness of the estimate?

A. Yes, sir.

Q. What was the next step in getting the money?

A. Then I took it over to the Comptroller's office—no, next I took it to the—yes, to the Comptroller's office.

Q. To the Comptroller's office?

A. That is right.

Q. What would they do then—did they decline to issue a voucher for the amount of the check?

A. He checked it over and then looked up to see whether there was any money there and he always told me that whatever the case was, sometimes he said there was money for part of it there, but for the main building it isn't here, Governor Ferguson—

Q. (Interrupting.) Now, when he said "there" what does he mean by "there"? The Senators want to know.

A. Well, it wasn't in the Treasury, didn't show there was enough to pay it.

Q. He made that statement to you?

A. Yes, sir.

Q. Now, when he made that

statement to you would he issue a voucher or warrant?

A. No, sir, he did not.

Q. Wouldn't issue a voucher or warrant when there wasn't enough money in the Treasury?

A. No, sir.

Q. What did he do then?

A. Well, he would send me to the Governor..

Q. Why did he send you to the Governor?

A. Well, he told me it was kind of hard for them to get a check from the Governor, and I had better try myself.

Q. I see. Did you go to the Governor when he would tell you that?

A. I did, yes, sir.

Q. Would you always find him in?

A. No, sir.

Q. How often did you find him out?

A. Oh, he was out of the city several times.

Q. When he was out of the city what would be the result on the paying to you of your money—would you get it when he came back?

A. Well, one time he was out and I had to wait about two weeks on the proposition.

Q. Did you have to come back to Austin again?

A. No, I wired a long distance telephone to Mr. Hardin and asked him to see that I got it, and I finally got it.

Q. Finally got it?

A. Yes.

Q. Then what would be your next step, what would you do about it?

Senator Hudspeth: Pardon me. Mr. President, I don't want to transgress the rule, but I would like for Mr. Harris to ask him when he went to the Governor, to ask what the Governor said.

Mr. Harris: All right, I will do so, Senator.

Q. Well, when you did find the Governor in, what did he say?

A. Well, when I found the Governor he wanted to see the estimate and I showed him the estimate, and he looked it over and he told his Secretary to make out a check and that he would send it over to the Treasurer.

Q. That he would send it over to the Treasurer?

A. Yes, sir.

Q. Did that occur once or more than once?

A. Oh, that occurred every time I took an estimate there.

Q. How many times did you get the Governor to make a deposit in the Treasury?

A. Oh, once a month. Estimates were always due on the first of the month.

Q. Would you go to see him the first of every month?

A. Yes, sir, I did.

Q. And whenever you saw him, what would he say?

A. Well, about the same thing.

Q. About the same thing?

A. Yes, sir.

Q. How long would you have to wait on it then—would it be an immediate transaction or would you have to wait a while?

A. Oh, it took an hour or two until the thing was over there and I got it, yes.

Q. That is what I wanted to get—it took an hour or two—

A. Yes, sir.

Q. Until the thing was over there?

A. Yes, sir.

Q. Did the Governor ever question any of your estimates when you exhibited them to him?

A. Not that I remember.

Q. Were your first estimates paid that way, or was the money in the Treasury?

A. Well,—oh, pardon me, one time he did, he claimed that I was overpaid, but—

Q. All right, we would like to know about that?

A. Well, he claimed that I was overpaid but I proved to him right there that he was not right; there was something paid on something else that didn't belong to us at all, and he found then that it was all right.

A. You convinced him that the estimate was all right?

A. Yes, sir.

Q. I see. And when you did convince him he said he would send a check over to the Treasury?

A. Yes, sir.

Q. The principal trouble that you had then was with reference to him

being out of town, or not accessible?

A. Yes, that was all, yes, sir.

Q. Now, I ask you about the first estimates, whether or not you had to go to the Governor about them, or whether the money was in the Treasury for the first fifty-four thousand, do you recall?

A. No, the first was all right.

Q. The first was all right?

A. The first money was all right.

Q. You had no trouble with that at all?

A. Oh, we had trouble with the first estimate but that was not the Governor's fault; I don't think the Governor had anything to do with that.

Q. I see. What was the trouble? You say the Governor didn't have anything to do with that?

A. I understood it was in the wrong fund; it was appropriated out of a fund that it didn't belong to.

Q. I see. That is the only trouble you had with the first fifty-four thousand?

A. Yes.

Q. And the Governor had nothing to do with that?

A. No, sir.

Mr. Harris: Is there any other question any of the Senators would like me to ask him?

Senator Hudspeth: I just wanted you to ask him, Mr. Harris, when the Governor instructed his Private Secretary to send a check to the Treasury if that check was immediately sent to the Treasury?

Mr. Harris: All right.

Senator Hudspeth: And how long he had to wait—

Mr. Hanger: Until he got the actual cash.

Q. How long, when the Governor would tell his Private Secretary to send a check to the Treasury, how long would you have to wait before you would get the actual cash?

A. Oh, it was somewhere in the neighborhood of an hour, or sometimes longer.

Q. I thought I had developed that.

Mr. Harris: That is all.

Re-cross Examination

By Mr. Hanger.

Q. Now, Mr. Gross, you say you think it was in November or December, 1915, that you had to discount these warrants?

A. I think so, I am not quite sure, it might have been different months, I

couldn't say, I think it was somewhere around there.

Q. Did you know this entire amount for the main building was in the two banks, the Temple State Bank and the American National Bank, and in each instance did you know that the money was there and that all of the actual cash was available to you independent of whether the Treasury was on a paying basis, or not?

A. I didn't know that.

Q. You didn't know that?

A. No. I knew the Governor had the money but I couldn't get it.

Q. But every time that you went to him, that you got to him and got a check from him you got your money within an hour?

A. I didn't get a check from him, he turned it over to the Treasurer.

Q. I understand that, well you got a check from him anyhow every time you went to him with one of those estimates?

A. I didn't get a check from him, he turned it over to the Treasurer, as I understand, I didn't see the check.

Q. The transaction was handled.—did he say the money would go to the Treasurer at once?

A. Yes, sir.

Q. Do you know that this being a special fund for that building, that the actual cash was turned over to the Treasurer by reason of a check drawn by the Governor?

A. Each time, yes, sir.

Q. Each time?

A. Yes, sir.

Q. And still on two occasions you did not get the cash, but you had to discount the warrant?

A. Yes, sir.

Q. Although the money was turned in there? Did you know that? I show you a check here, see what that first one is, in November?

A. The third day of November.

Q. And the five thousand dollars estimate shows an estimate on the West Texas Normal, or something down there—that is in November, isn't it?

A. Yes, sir.

Q. Check drawn on the Treasurer for five thousand dollars? Here is another one drawn on the Treasurer, November 27th, for \$6,115.00, isn't it?

A. Yes, sir.

Q. Canyon City Normal account?

A. Yes.

Q. Speak louder, please, sir.

A. The money, Mr. Hanger, on the Treasurer—

Q. To the Treasurer drawn on the American National Bank?

The Chair: Senator Henderson had one question here he wanted to ask. I will read the question.

Senator Bee: Mr. President, I think I asked some questions there that probably ought to be asked at this time in order that Senator Hanger may have the benefit of it instead of having to go back.

The Chair: Mr. Gross, I will read this question as propounded by Senator Henderson. "How much money had you collected on the contract at the time you discounted the two estimates?"

A. I couldn't say. I couldn't say off hand how much we had drawn.

The Chair: All right, take this by Senator Dayton: "Mr. Gross, upon whom did you state the Governor drew the checks that he gave you?"

A. I don't know. The Governor didn't hand me any checks. I didn't get any checks from the Governor, whatever.

The Chair: This is by Senator Lattimore:

Senator Hudspeth: Right in that connection, Mr. Chairman, I don't like to violate the rules—

The Chair: You will have to ask it in writing, though, Senator. You prepare it and I will read it to him right away.

These two questions by Senator Lattimore: "The Legislature appropriated money to supplement the insurance money and rebuild the Canyon Normal building. How did you know which money was first paid to the contractors, the appropriation by the Legislature, or that held by the Governor? If you do know, then which?"

A. Well, there was some paid first, I think it was fifty some odd thousand that was paid at first.

Mr. Harris: How many thousand, I didn't hear you?

A. I don't know, I think as near as I can remember it was fifty some odd thousand. I may be wrong about that, but I think it was in the neighborhood of that. I am not sure, though. I knew at the time but I don't recollect now.

The Chair: Did you state when you presented your last estimate or warrant that the Governor told you that the fund was exhausted and he

could issue deficiency warrants? Now was a deficiency warrant issued, and when was that? (By Lattimore.)

Q. Why, there was a deficiency warrant issued all right, but I believe we discounted that one, we couldn't get it, I don't know when it was paid, I think we discounted it.

The Chair: This question calls for the amount of it?

A. I don't remember, but I think it was something like fifteen hundred dollars, it wasn't far off from fifteen hundred, somewhere there, either a little over or a little less, I think it was probably more than fifteen hundred, though.

The Chair: Here is one by Senator Hudspeth: "When you went in to see the Governor to collect that money did you see him write a check or have his secretary write one to be transferred to the Treasurer?"

A. No, I didn't, I never waited for that. He just told me it would be done and I left then.

The Chair: Here is a question by Senator Henderson: "Did you go to see the Governor about the two items that you discounted before you discounted them?"

Mr. Hanger: What was the last question, may I ask?

The Chair: Did you go to see the Governor about the two items that you discounted before you discounted them?

A. No, I didn't see him, no, sir.

The Chair: Some questions by Senator Bee: "If the checks had not been given you by the Governor, from what source would you have received your warrants, and to whom would you present them?"

A. I would naturally present them to the Comptroller.

Mr. Harris: You mean the estimates, or your warrants?

A. The estimates.

The Chair: The question reads, "Warrants."

Mr. Harris: To whom would you present your warrants, not your estimates?

A. Warrants?

Mr. Harris: Yes.

A. Just deposit them in our bank at Waco.

Q. Drawn on what account?

A. Drawn on the Treasurer of the State.

The Chair: Another question by Senator Bee: "Were your checks

given you by the Governor drawn against the State Treasurer? If not, upon what institution were they drawn?"

A. I don't know it, I never saw any of them.

Senator Bee: I will state, Mr. President, at the time I asked that question it had not developed.

The Chair: Another question by Senator Bee: When did you first begin receiving your checks from Governor Ferguson?

A. I don't recollect.

Q. Just a minute: Who notified you to go to him for checks?

A. Mr. Buck Hardin, the warrant clerk in the Comptroller's office, told me I had better go to see him myself.

Mr. Harris: What did he say?

A. Told me to see him personally.

The Chair: Another part of the question is: "When did you first begin going to the Governor?"

A. I couldn't say the time; I think it must have been in May or June, somewhere around there.

Q. What year?

A. 1915.

The Chair: Another question by Senator Bee: "Who was Governor when you secured the contract?"

A. Governor Colquitt.

The Chair: Another question by Senator Bee: "What was the amount of the discount you had to pay, and was it the bank of which Mr. Sparks was president?"

A. Well, I don't remember the exact amount we paid; of course, I could look it up, it is on the books, but I don't know off-hand. I didn't make any memorandum of it.

The Chair: A question by Senator Caldwell: "Did you ever get a deficiency warrant for any part of your money, if so, when?"

A. On this particular contract?

Senator Caldwell: Yes, on this contract.

Mr. Harris: Read the question again.

The Chair (Reading): Did you ever get a deficiency warrant for any part of your money, if so, when?

A. I don't know whether you call this—you call this a deficiency warrant, when we couldn't draw our money.

Senator Caldwell: I would like to ask the witness if he understands what a deficiency warrant is, whether

it is different from any other warrant.

Mr. Harris: Do you know the difference between a deficiency warrant and any other warrant?

A. I have not studied the warrants, it would be a warrant whenever the money is not there, it would be available whenever it is appropriated, I suppose that is what it is. That is the way I would judge it would be.

The Chair: Senator Bee states the witness failed to answer one part of his question, so I will read the question again: "What was the amount of discount you had to pay and was it to the bank of which Mr. Sparks was president? The latter part of the question?"

A. I don't remember the discount exactly, but it was nothing exorbitant, he told me he didn't care for it, he told me "You better take it to your bank," he says, "we don't care to do it," he says, "There is nothing in it for us."

Senator Bee: Who told you that?

A. I think Mr. Sparks, either Mr. Sparks or a gentleman in the office there.

Mr. Harris: Please repeat that, one of the gentlemen was talking to me, one of the Managers.

A. He advised me to take it to our bank.

The Chair: That is all of the questions that have been sent up. Mr. Hanger, proceed.

Senator Hudspeth: Pardon me, just a moment, Mr. President. He never did answer Senator Caldwell's question asking whether he ever received a deficiency warrant.

Mr. Harris: Did you ever receive a deficiency warrant, and if so, when?

A. I think I did, on the last payment I did, about fifteen hundred dollars.

The Chair: When was that (Henderson), another question?

A. That was in 1916.

Q. 1916, what month?

A. I don't recollect, but I think it was sometime in June. I believe it was, as near as I can remember.

The Chair: All right, gentlemen.

Re-cross Examination

By Mr. Hanger.

Q. Yes. In connection with the deficiency warrant Judge Martin sug-

gests I will ask you, there were some extras out of that that ran some several hundred dollars?

A. I think so, yes, sir.

Q. Probably as much as the deficiency warrant?

A. No, it was not.

Q. Wasn't that much, you think?

A. No.

Q. Now, you don't remember, however, the amount of the deficiency warrant nor the amount of the extras?

A. No, I don't, not off-hand.

Q. Now, Mr. Gross, you understood, did you not, or did you understand that when you presented an estimate to the Governor that he then drew a check on the American National Bank payable to J. M. Edwards, State Treasurer, for the amount of the estimates presented? Did you understand that?

A. I understood he was going to draw a check, I don't know where he drew them?

Q. You don't know what bank he drew them on, or what the process was?

A. No, sir, I don't.

Q. Now, up to December, you think it was December, November or December, to be exact, I try to quote you literally, up to November or December, 1915, you always got your money immediately?

A. Yes, I did.

Q. Then they told you they had gone on a deficiency and could not pay you even after you had gotten the Governor's approval of the estimates?

A. Well, the Governor didn't approve the estimates.

Q. Well, after he had ordered the transaction put through, as he had been doing before that?

A. Yes.

Q. Then, you had to discount your warrants?

A. Yes, sir.

Q. Now, did you know that the total amount paid included that, or including the \$11,156 in November, that the total amount paid up to December was only \$61,663, and that there were yet available in cash in the bank to pay your estimates, cash to you, dollar for dollar, \$40,000—you didn't know that did you?

A. I knew it, yes.

Q. You did know it?

A. I knew, I was told Governor

Ferguson had that money, yes, certainly.

Q. But at the Treasurer's office they told you they didn't have it there, it wasn't available, although it came right up from the bank in cash to the Treasury?

A. They told me at the Treasury the money was not available, yes, sir.

Q. They told you that at where? At the Treasurer's office or at Sparks' bank, or both?

A. No, sir, they didn't tell me that at Sparks' bank at all,—at the Comptroller's office, and—

Q. That was the Treasurer?

A. —at the Treasurer's office.

Q. At the Treasurer's office?

A. Yes, sir.

Q. You did know that the amount of your estimates at that time amounted to about the sum before stated, didn't you?

A. Yes, sir, that is, if this is correct what you say it would be, yes, I would know it, yes, sir. Whatever was paid I would know, of course, I would.

Q. At the time you had discounted your warrants you had not received anything like a hundred thousand dollars on your contract, had you?

A. No, sir.

Q. You had not, that's all.

A. Oh, on the contract we had, yes, we had received more on the contract.

Q. At the time you discounted your warrants?

A. Yes, sir.

Q. In December, 1915?

A. Yes, in all, yes.

Q. Oh, on the whole contract. I am talking about the main building, though. You didn't receive anything like that on the main building?

A. Well, I guess we did, there was some fifty—some odd thousand, I think, was paid before the Governor began to deposit some of this hundred thousand dollars, I think.

Q. Fifty-four thousand dollars?

A. I think it was something like that, whatever it was.

Q. Who paid that?

A. It was paid from the Treasury.

Q. Yes, yes?

A. Yes, sir.

Q. Oh, well, counting that, but I mean out of the hundred thousand, there wasn't anything like all of that paid at the time you discounted your warrants?

A. No.

Q. Now, I understand you.

Re-direct Examination By Mr. Harris.

Q. If I understand you, did the Treasurer state there wasn't any money available there?

A. Yes, sir.

Q. You testified, too, he advised you that if you got your money you would have to discount it?

A. Yes, sir.

Q. You say you did know the Governor had the money in the bank?

A. I don't know whether he had the money in the bank. I know he had the money, all I know he had the money from what he told me.

Q. Did anybody tell you they had trouble getting him to deposit it in the Treasury? If so, who told you that?

A. Buck Hardin told me I better go see him myself to get it, that's what he told me.

Q. That's what Mr. Hardin told you?

A. Yes.

Q. Did you go to see the Governor again?

A. I did, whenever my estimate was ready I always went to see him, yes, sir.

Q. I think that is all.

Re-cross Examination By Mr. Hanger.

Q. When did you say you talked to Mr. Sparks about this matter? Did you talk to him about this money being in the bank?

A. No, I don't know as I ever talked to him.

Q. Except the time you discounted the warrants, the conversation you had then?

A. Yes, I don't recollect about it.

Re-direct Examination By Mr. Harris.

Q. Mr. Sparks never asked you to discount those warrants, did he?

A. No.

Q. Never told you you had to do it?

A. No.

Q. When you proffered them to him he told you he didn't want to discount them?

A. He said he would rather not.

Q. Told you he would rather you would present them to your bank?

A. Yes, sir.

Re-cross Examination
By Mr. Hanger.

Q. How did you come to go to his bank instead of some other bank?

A. Well, Mr. Endress told me, that is, when we had the first discount, and we were quite a heavy borrower at our bank, and I didn't care to take it over there, and simply it was easier to use out of that.

Q. Mr. Sparks didn't want it, but as an accommodation to you he would cash it?

A. I don't know as he thought it was an accommodation, he told me the rate, and the rate wasn't exorbitant.

Senator Bee: I wish the Sergeant-at-Arms would have these pages stand about these Senators here so we can have one when we need them without clapping our hands.

Senator Hudspeth: Senator Hanger, ask if Sparks accepted the discount?

Mr. Hanger: He accepted the discount, did he?

A. Yes, sir.

Q. What is your bank in Waco, some gentleman wanted to know?

A. First National Bank.

The Chair: Any further questions, gentlemen?

Mr. Harris: That's all.

The Chair: I have a question here to read, but I wanted to wait until counsel had finished before I read it.

General Crane: One moment, please.

Mr. Harris: Request has been made for this question: "These two estimates that you discounted, state whether or not you interviewed the Governor about them before you discounted them?"

Mr. Hanger: He answered that.

A. I did not, no, sir.

The Chair: I will read this question, Mr. Gross, by Senator Henderson: "Why did you not go to see the Governor before you discounted the two vouchers?"

A. Why, I didn't think there was anything to see him about. I just had seen him and he said he was going to give his check for the amount as usual and I didn't see any—

Mr. Harris: Repeat that again, I didn't hear it.

A. I just had seen him, I said, and he said he would send over a check to the Treasurer the same as

usual and I didn't think it was any use to see him again, you know.

Q. Did you go back to the Treasurer and see if you could get it then?

A. I did, yes, sir.

Q. It still had not been deposited?

A. I made the remark, "It certainly looks to me if the money is there and Governor Ferguson pays this money out I certainly ought to have that amount without having to discount it." But they informed me it goes in the general fund and has nothing separately to do with the proposition.

Q. Did they say whether or not the Governor had deposited the money in the Treasury at that time, the balance?

A. I don't know as they said anything about it, but simply said they couldn't pay it, because it was—

Q. The funds were not available?

A. The funds were not available, yes, sir.

The Chair: This question by Senator Page: "You have said you have discounted two warrants. Why did you not go to the Governor at that time and ask him why you could not get the money without discounting these?"

A. Well, I will tell you. I spoke to the Governor about it and the Governor said: "I will turn the check over." That is what he said. I didn't want to bother him any more, or see him any more. I didn't think it was advisable to do it.

Senator Page: Do I understand him to swear upon the stand now that he went to Governor Ferguson at the time he had these two warrants—did the Comptroller and Treasurer tell him he had no money there?

A. I went to the Governor and the Governor told me he would send that check over and the Governor didn't send the check over.

The Chair: You have stated you discounted two warrants. Why did you not go to the Governor at that time and ask him why you could not get the money without discounting it?

A. Well, I think I spoke to him, but all he said: "I am sending a check over to the Treasury." That's all the Governor told me.

Senator Page: That's the point, I understand him, he has stated now;

I wanted to know from him if he means he went to Governor Ferguson at the time he got these two warrants and asked him for the money and the Governor told him he was going to send a check to cover these exact warrants to the Treasury and then didn't do it.

Senator Hudspeth: I would like for counsel to develop the lapse of time that intervened between the time he went to the Governor and the time he went to the State Treasury.

Re-cross Examination

By Mr. Hanger.

Q. Now, Mr. Gross, you went to the Governor and spoke to him about what—the estimates?

A. Yes, sir.

Q. He told you he would draw the check on the bank to the State Treasurer?

A. He said he was going to send a check over to the Treasurer.

Q. Now, then, did you afterwards go and get your warrant from the Comptroller?

A. I did, yes, sir.

Q. After you had talked to the Governor?

A. Yes, sir.

Q. Then you took that and presented it to the Treasurer and he told you there wasn't any money available, that the money had gone in the general fund?

A. That's correct.

Q. Now, you didn't go back to the Governor after that?

A. Well, I don't recollect, but I have a faint remembrance I did, because I was worked up about it, but I think I stepped in and asked him about it.

Q. What did he say about it?

A. I told him I couldn't get that money, and he said he had sent the money over to the Treasurer.

Q. Said you ought to get it?

A. He just simply told me he sent the check over.

Q. I see.

A. He didn't tell me I should get it.

Q. Well, did you tell him you were going to have to discount it?—I believe you said a while ago you did not.

A. Well, I wouldn't swear it; I might have said it, but I am not sure about that.

Q. Now, then, how long a time elapsed from the time that you went to the Comptroller's office—went to the Governor's office, until the time you were told by the Treasurer that it could not be paid? Somebody wanted that question asked.

A. Well, I remember that particular—

Q. About how long?

A. Well, that particular warrant, I got it just at noon and I went in there and Buck Hardin was gone to lunch and of course I had to wait until he gets back from lunch before I could get the warrant drawn. I think it was in the afternoon, either 2 or 2:30.

Q. That you went to the Treasurer's office?

A. Yes, sir.

Q. You didn't get your money—you went and got it discounted at the Texas Trust Company, they cashed it for you?

A. Yes.

Q. How long was it—what time of day?

The Chair: We want everybody in this Chamber to stop talking. If you want to engage in conversation retire outside the Chamber.

A. It was in the afternoon some time.

Q. Well, shortly after you left the Treasurer's office?

A. Yes, sir.

Q. You probably walked as quickly as you could from the Treasurer's office down there and cashed it?

A. Yes, sir.

Q. Now, how did you cash it: did you get the money, or a check on some bank?

A. They gave us a check on some bank.

Q. On the American National Bank?

A. I don't remember what bank.

Q. A local bank here in Austin?

A. I think so, yes, sir.

Q. Now, you don't know how long it was before they got their money—you don't know anything about that?

A. No, sir, I don't know anything about that.

Q. Now, every time that you went to the Governor, except these two times, and got your estimates allowed or presented the matter to

him, whatever terms you used to describe it, you got your money within an hour or such a matter?

A. Yes, sir, something like that.

Q. Judge Martin suggests this question: On the occasions that you had to discount your warrants, these two, they told you that the money had gone into the general revenue—in the Treasurer's office they told you that?

A. Yes, sir.

Q. Well, did they tell you that the particular check that the Governor had drawn that day on the American National Bank or on whatever bank it was—they probably didn't tell you the bank—payable to the State Treasurer, that they had turned in that into the general revenue?

A. They told me so.

Q. They told you they had turned that particular check into the general revenue?

A. They told me under the law they had no right to make a separate payment of that.

Senator Page: Mr. President, if counsel are through with the witness I would like to make this suggestion: We are not satisfied; we have not the facts—I have not. We want the gentleman to bring his books here and we want the warrants here and want the testimony made clear as to this particular transaction.

Mr. Harris: I just suggested to General Crane that we had to introduce additional testimony to make it clear.

The Chair: Well, any further questions, gentlemen?

Mr. Hanger: That's all.

Mr. Harris: That's all.

Senator Caldwell: Mr. President.

The Chair: The Senator from Travis.

Senator Caldwell: I think the matter can be cleared up by sending for Mr. Harding, the Warrant Clerk.

The Chair: Well, you can take that up with counsel. Mr. Gross, there are no further questions, and you will be excused for the present.

Mr. Harris: He will have his books shipped here from his home, if you want them, but maybe we can get from the Comptroller's office and the bank records all we want.

Senator Page: Well, I must admit I do not understand the transaction.

Mr. Harris: We will get the Comp-

troller's and bank records and we think that will make it clear.

The Chair: Well, gentlemen, with that explanation—are there any further questions now to this witness?

Mr. Harris: Nothing further until we get the records, but don't leave until we get the records.

The Chair: Have the next witness called.

The Proponents thereupon called,

CLARENCE DuBOSE,

who presented himself at the bar and was administered the following oath by the Chair:

"You do solemnly swear that the testimony that you shall give in the hearing of impeachment charges against James E. Ferguson, Governor, shall be the truth, the whole truth, and nothing but the truth, so help you God"

And who, upon questions propounded, testified as follows:

Direct Examination

By Mr. Harris.

Q. State your name?

A. Clarence DuBose.

Q. What is your business?

A. Newspaper man.

Q. Were you employed by the Dallas News on July 14, 1917?

A. Yes, sir.

Q. Did you write an account of the Governor's speech at Valley Mills delivered on July 13th?

A. Yes, sir.

Q. Is this an account of that speech?

A. Yes, sir.

Q. Is this a correct account of the speech—an accurate account?

A. Yes, sir.

Q. Wherein you attribute to him a statement in that speech; did he make that statement?

A. Yes, sir.

Q. What was the size of his audience as you recall it on that day at Valley Mills?

A. I think I give the figures in here; I think I do.

Q. That is to the best of your judgment a correct estimate?

A. Yes, sir.

Q. Were there ladies present as well as gentlemen?

A. Yes, sir.

Q. Did you report any other of his speeches?

A. Yes, sir, I reported one at Walnut Springs.

Q. I exhibit to you a Dallas News of date July 29, 1917, in which a report of the Governor's speech at Walnut Springs is made. Did you make that report?

A. I did.

Q. Is it an accurate report of what he said?

A. Yes, sir.

Q. Wherein you attribute a statement to him, did he make the statement in that speech?

A. Yes, sir.

Q. What was the size and character of his audience?

A. I think I give that in there.

Q. Those are the only ones of his speeches you reported?

A. The only ones, yes, sir.

Mr. Harris: That's all.

Cross Examination
By Mr. Hanger.

Q. What paper do you represent?

A. The Dallas News.

Q. Where is that published?

A. In Dallas.

Q. In Texas?

A. Yes, sir, in Texas. (Laughter).

Mr. Harris: Call Silliman Evans. He will be back in just a minute.

General Crane: We now offer, Mr. President,—

The Chair: Let the Court and all of the Chamber be quiet, please.

General Crane: We offer in evidence part of the Walnut Springs speech—

Mr. Harris: No, the Valley Mills speech.

General Crane: Yes, the Valley Mills speech of Governor Ferguson, in which he was discussing the University. Speaking of the University he said: "Or, in other words, they are spending more than \$666 of the people's money for every student that goes to the State University. Now, mind you, this is in addition to what hundreds of mothers and fathers are paying for tailor-made clothes, \$10 bouquets, automobiles, silk stockings, golf balls and high balls, poker chips, fraternity dues, frat pins, and mandolins and a hundred other foolish and extravagant things which the rich crowd says is necessary to carry on this Belshazzar revel down at the State University. The taxpayers can see that it is too much. The struggling parent can see that it is too much, and again I say that not only are too

many people going hog wild over high education, but that some people have become plain damn fools over the idea that we must have an army of educated fools to run the government. You people of Bosque County," he continued, "send nine students to the University and pay \$2,855 a year from this county, or \$317 a year for each student from this county. Don't you think that's too much to pay for the privilege of having a boy come home knowing how to play the mandolin and with diseased kidneys?"

General Crane: Mr. Sergeant-at-arms, can you get Mr. Evans?

The proponents thereupon called

SILLIMAN EVANS,

who presented himself at the bar and was administered the following oath by the Chair:

"You do solemnly swear that the testimony that you shall give in the hearing of impeachment charges against James E. Ferguson, Governor, shall be the truth, the whole truth, and nothing but the truth, so help you God."

And who upon questions propounded, testified as follows:

Direct Examination
By Mr. Harris.

Q. State your name.

A. Silliman Evans.

Q. What is your business?

A. Newspaper reporter.

Q. Did you represent the Dallas News in reporting Governor Ferguson's West Texas speeches?

A. Yes, sir.

Q. While he was acting as a member of the Locating Board of the West Texas A. & M. College?

A. Yes, sir.

Q. Did you report his speeches accurately and correctly?

A. Yes sir.

Q. Wherein you attempt to quote him, do you quote him correctly?

A. Yes, sir.

Q. I exhibit to you a Dallas News of Wednesday, June 13th, 1917, giving an account of his Abilene speech. Did you write that account?

A. Yes, sir.

Q. Wherein you attribute statements to the Governor there, did he make them?

A. Yes, sir.

Q. How many people were present—a large crowd, or small?—that's all I care for?

A. Why, the story here says fifteen hundred.

General Crane: Speak louder.

A. My story here says fifteen hundred. There were about fifteen hundred persons present.

Q. Did you write this account of his speech at Haskell in the Dallas News of June 14th?

A. Yes, sir.

Q. Wherein you attribute statements to him there, did he make those statements?

A. Yes, sir.

Mr. Harris: There is another paper—let's see just a minute if I have another paper I want to prove by him.

Mr. Hanger: Here is the 13th. You have proved that.

Mr. Harris: All right. I will get the next one. June 14th, I have proved that up.

General Crane: Yes. Let's have the 13th.

Mr. Hanger: I want to ask him a question.

General Crane: Well, proceed.

Mr. Hanger: When you get through.

Mr. Harris: Oh, yes, June 17th. Here it is. Lubbock, Texas.

Q. You gave an account of that speech made at Lubbock?

A. Yes, sir.

Q. Is that a correct account of his speech at Lubbock—that is, wherein you attempt to quote him?

A. Yes, sir.

Q. That is correct, is it?

A. Yes, sir.

Mr. Harris: That's all, I believe, we care to identify.

The Chair: Any questions to the witness?

Cross Examination
By Mr. Hanger.

Q. Mr. Evans, the Governor said in that speech—

General Crane (Interrupting): Now, Mr. President, I don't think he has a right to cross-examine the witness as to what was said until we offer it in evidence. We are going to, and then you can cross on anything you want to ask.

Mr. Hanger: I thought they had proved the articles here, and considered that an offer.

General Crane: No, we are going to offer them.

Mr. Hanger: I thought we alone bore the brunt of having made technical objections, but we can wait.

The Chair: Is the question withdrawn?

Mr. Hanger: We desire, however, to interrogate the witness after you read it.

General Crane: Oh, well, go on.

The Chair: Proceed with the interrogation.

Q. He said in that speech at Abilene, did he not—

Senator Bee (Interrupting): Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: It occurs to me that it would be proper first to have the article read. Otherwise we would have the cart before the horse.

General Crane: All right.

Mr. Hanger: What date is that?

General Crane: It is June 13th. We now read from the speech of the Governor at Abilene made on June 13th, 1917—

Senator Hanger: I think it is the 12th, if you will pardon me.

General Crane: Yes, the paper is June 13th, and, of course, the speech was made the day before.

Mr. Hanger: The night before.

General Crane (Reads): "Denying emphatically that he had ever intended or wanted to close the State University or hurt the cause of higher education," Governor James E. Ferguson tonight made a vigorous attack upon the faculty of the University of Texas, the 'student crowd,' and charged the faculty 'with more disloyalty to the State of Texas'—"

Mr. Hanger (Interrupting): We object to reading the newspaper comments, but only what he said.

General Crane: This is in quotation marks, your Honor.

Mr. Hanger: I thought it was their language.

General Crane: No, I am following the rule.

Mr. Hanger: All right.

General Crane (resumes reading): "made a vigorous attack upon the faculty of the University of Texas, the 'student crowd,' and charged the faculty 'with more disloyalty to the State of Texas' than all the fifty-

five F. & L. P. A.'s which you folks have indicted."

Mr. Harris: Then, down there he said, "There is no lie so black."

General Crane: Wait a minute. That's over on the next page—continued on page 2, column five.

Mr. Harris: It is marked there.

General Crane (Reading): "There is no lie so black that these fellows would not tell," he added, referring to the faculty of the University, making the connection, though, "Governor Ferguson used both ridiculous denunciations in his remarks about the faculty"—

Mr. Hanger (Interrupting): Isn't that "ridicule?"

General Crane: Yes, that's right, "ridicule."

General Crane: On June 13th, at Haskell, there is this account given: "This talk"—this is Governor Ferguson's speech—"This talk you hear about the University of Texas appropriations not being vetoed is all 'clap-trap,'" said Governor James E. Ferguson here tonight, his first public utterance concerning the recent opinion of Attorney General Looney, given at the request of President R. E. Vinson of the University of Texas. "I want to tell you that those University appropriations are vetoed," he said, "They have been scalded up and down just like a dead lobster. If those fellows are so sure that the appropriations have not been vetoed, why in the name of Heaven are they calling that meeting at Dallas, at which—they say—there will be 4,000 people present to devise ways and means of keeping the University going after they have had a graduate of the University to enjoin any members of the Board of Regents from acting as they see fit. What are they kicking about? Those appropriations have been vetoed, and that is not all, they are going to stay vetoed. My dander is up now, and if they want a fight they sure can have it."

Mr. Harris: The next paragraph down to "High treason against the Governor of Texas," the middle of the paragraph.

General Crane (Reading): "Governor Ferguson's speech tonight was replete with charges, and he spoke with campaign vigor and fire, reaffirming charges of 'disloyalty' and 'anarchy' against the student body and faculty of the University of Texas, and he

added the charge of 'high treason against the Governor of Texas'."

Mr. Hanger: Let's see that. Is that his comment?

General Crane: That's what he quotes him as saying.

Mr. Harris: June 13th, did you read that?

General Crane: Yes, sir.

Mr. Harris: You read the 14th. Here is one on June 17th, on page 4, column 6.

General Crane (reading: "Lubbock, Texas, June 16th. Governor Ferguson, in a speech in which he repeated his attacks upon the faculty and students of the University of Texas," and so forth. "He was introduced by W. H. Bledsoe. 'Butterfly chasers,' 'day dreamers,' 'educated fools' and 'two-bit thieves' were some of the terms Governor Ferguson used in his denunciation of the University faculty and students."

General Crane: Is the next on page 1, column 7?

Mr. Harris: No, sir, over on the next page.

General Crane: In his speech at Walnut Springs on the 28th of July, isn't it?

Mr. Harris: 29th of June.

General Crane: The paper is the 29th, but the speech was made on the 28th. He used this language—

The Witness: (Interrupting.) General Crane, I didn't report that.

General Crane: I thought you proved that by Mr. DuBose.

Mr. Harris: I did.

General Crane: Mr. DuBose was on the stand before you came in.

Senator Hudspeth: You proved that by the other correspondent.

General Crane: Yes.—(reading) "Governor Ferguson said he urged, not demanded, that the Board of Regents 'clean up out there and make the University a democratic institution'; that because of the 'student mob and the injunction and the University defiance of all authority' he vetoed the last appropriation bill and 'until they stop this rebellion against the constituted authorities of the land it can stay vetoed until doomsday.'"

General Crane: That's all, Mr. President. Immediately after noon we will have up the other item from the Comptroller's Department and give the Court the advantage of that.

The Chair: Any question, Mr. Hanger?

Mr. Hanger: Yes, sir.

Cross Examination
By Mr. Hanger.

Q. The Governor said at Abilene expressly and emphatically that he did not intend to close the University and was not against higher education, didn't he, Mr. Evans?

A. Yes, sir.

Q. I will ask you if he didn't say this, after reviewing the appropriations—

General Crane: There is one other matter, Mr. Hanger, we overlooked, but you can go on.

Q. "After reviewing the appropriation of two million dollars for the rural schools, which he characterized as 'one reason of the attack on me,' Governor Ferguson declared it, to be 'penalty of all who would render a public service to be misrepresented and misunderstood.'" He said that?

A. Yes, sir.

Q. He said, "I have suffered that penalty. They say that I wanted to close the University and that I am against higher education. I deny it." He used that exact language, didn't he?

A. Yes, sir.

Q. "The statements are maliciously false, deliberately untrue and spread and encouraged by a nefarious system of the student crowd, which, if allowed to continue, will strike at the very roots of our system of government." That was a sentence he used in denying that he was intending to close the University or was against higher education?

A. Yes, sir.

Q. He said all the time he did not intend to close the University?

A. In that speech?

Q. Yes—it recurs in two or three places, that's what I mean.

A. Yes, sir.

Q. In two or three places in his Abilene speech?

A. Yes, sir.

Mr. Harris: They speak for themselves, Senator.

Mr. Hanger: I think it is permissible to cross examine the witness about what was said without reference to the book or newspaper.

The Chair: Yes, I think so.

Mr. Hanger: I think that's all.

General Crane: One moment.

Mr. Hanger: There may be some other portions of these speeches we may want to read.

Re-direct Examination
By General Crane.

Q. What is the date of that interview you are supposed to have had with Governor Ferguson in Dallas for the Dallas News—formal interview?

A. If you can tell me the date that he made his last speech at Amarillo, I can give you the date of that.

Q. I see. Did you have an interview with him on June 21st? (Handing paper to witness).

A. I presume the date is correct—about June 21st.

General Crane: Do you want the original paper?

Mr. Hanger: Yes, sir. Get it here by 2 o'clock. I don't think that is the full interview.

General Crane: Never mind—we'll get it.

Mr. Hanger: I think there is more than that, that's the only reason.

The Witness: There is a long story made up about it.

Senator Page: Mr. President, I move we recess until 2 o'clock this afternoon.

Thereupon, at 11:55 a. m., upon motion of Senator Page, the Court recessed until 2 o'clock p. m.

After Recess.

Monday, September 10, 1917.

Afternoon Session.

Senate Chamber, Austin, Texas.

(Pursuant to adjournment for recess, the Court reconvened at 2 o'clock p. m. of the same day).

The Chair: The hour having arrived for convening the Court, the Sergeant-at-Arms will see that the Chamber is cleared of all except those entitled to remain, and that the bar is cleared of all except those entitled to be within the bar.

(The Sergeant-at-Arms at the door of the Senate announced that the Court of Impeachment had convened).

The Chair (To counsel): Gentlemen, are you ready to proceed?

General Crane: Except the wit-

ness is not here. Is Mr. Holton here? Call Mr. Holton, please.

(Mr. Holton presented himself at the bar of the Court).

The Chair: Have you been sworn?

Mr. Holton: No, sir.

The Chair: Give your name to the Secretary.

(The witness gave his name to the Secretary and was thereupon administered the following oath by the Chair, viz.):

"You do solemnly swear that the evidence you shall give upon this hearing by the Senate of Texas of impeachment charges against James E. Ferguson, shall be the truth, the whole truth, and nothing but the truth, so help you God?"

Mr. Harris: Mr. Chairman, there are very few Senators here. Some of them particularly want to hear the testimony about the matter we are about to go into here now—Senator Page particularly asked about it. Let us wait a few minutes.

A Senator: I move that the Court stand at ease for a few minutes.

The Chair: It is moved that the Court stand at ease for a few moments, subject to the call of the Chair. Those in favor of the motion signify by saying "Aye," those opposed, "No." The motion prevails and the Court will stand at ease for a few minutes, subject to the call of the Chair.

(At 2:17 p. m. the Court resumed proceedings.)

The Chair: The Court will come to order.

Senator Bee: Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: I do not think there are more than sixteen Senators present, we do not like to proceed until—

The Chair: The trouble is, they won't come if we keep waiting for them—if we wait until 2:30 today, it will be 3:00 o'clock before they will get here tomorrow.

Senator Bee: I understand, most of them have two-and-a-half dinner hour habits, and they do not seem to be able to break loose from it.

Senator Hudspeth: They were put on notice that we were to convene at 2:00 o'clock.

Senator Bee: I have no objection, go ahead.

The Chair: All right. We will proceed.

Thereupon, the Proponents called,

G. N. HOLTON, ESQ.

who having been previously sworn, in answer to questions propounded, testified as follows, to wit:

Direct Examination
By General Crane.

Q. What is your name?

A. G. N. Holton.

The Chair: A little louder, please.

Q. What is your business and employment, and what was it in 1916?

A. Clerk in the State Treasurer's office.

Q. Speak a little louder, please?

The Chair: Speak a little louder.

A. Clerk, in the State Treasurer's office.

Q. Did you have anything to do with the books?

A. Yes, sir.

Q. I wish you would examine this statement and see whether it came from books of the State Treasurer (indicating statement)?

A. Yes, sir. It did.

Q. What does—does that statement properly exhibit the facts in reference to the condition of the Treasury at the dates therein stated, as to whether there was a deficiency in the general revenue or otherwise?

A. Well, I don't know, General, that this—this seems to be a copy of a certain account.

Q. Well, then, haven't you a memorandum there showing when the deficiency occurred?

A. Yes, sir.

Q. Taken from the book? Well.

A. The memorandum shows here that the deficiency occurred—well, that memorandum isn't here—about the 11th of October, 1915.

Q. The 11th of October, 1915?

A. Yes, sir.

Q. What was the amount of the deficiency on the third day of November, 1915, have you got data enough to show?

A. No, sir.

Senator Lattimore: I would like for the gentleman to ask, for our information, whether that deficiency was in a particular fund, or in the general fund?

A. In the general revenue fund.

Q. The deficiency that occurred was in the general revenue fund?

A. The general revenue fund.

Q. Yes, sir. Now, that is an appropriation that was made to build the West Texas Normal, you understood it to be made out of the general revenue?

A. Yes, sir.

Q. So all the funds deposited in the Treasury, including the insurance money, were to be deposited with the general revenue and be taken out by the general appropriation bill?

A. Yes, sir, that is the way I understood it.

Q. You so understood it?

A. Yes, sir.

Q. Yes. Now the deficiency account, you say there was no money to pay the warrants at about what date?

A. About the 11th of October, 1915.

Q. Have you anything there to show the amount of the deficiency at that date, the 11th of October?

A. Nothing whatever, no, sir.

Q. Can you give that from the books?

A. It could be obtained from the books, yes, sir, but it would be a pretty good job.

Q. Now, you got some revenue in later, and then you made certain calls for certain warrants of certain persons?

A. Yes, sir.

Q. When did you make the first call?

A. On the first of November, the first warrants for general revenue were called, amounting to \$137,000, which included the warrants that were then outstanding and not paid up to and including Warrant 5850.

Q. Yes, the warrants that were outstanding and not paid, that you called, amounted to \$137,000 and a few dollars?

A. Yes, sir.

Q. Now, if you had had the revenue—the insurance fund of something more than \$50,000, at that date, you could have made that call for a larger amount, couldn't you?

Mr. Hanger: Do not lead the witness. That question is objected to as leading.

General Crane: Well, it is more or less leading.

Q. What was the amount of the in-

surance money that was put into the State Treasury after that date?

A Senator: What insurance money?

A. Why, General Crane, I couldn't tell you, because I just got this.

Mr. Hanger (Answering the question of the Senator): West Texas.

Q. Well, let me help you a little?

A. All right.

Q. This column shows the amount of deposits (indicating on sheet) by Governor Ferguson in that fund, doesn't it, plus \$54,754.00 appropriated by the action of the Legislature out of the general fund in the Treasury, doesn't it?

A. Yes, sir.

Q. Now, these marginal references here show the dates of these deposits in the Treasury, don't they?

A. Yes, sir.

Q. 10-2-1915,—that is October, isn't it?

A. Yes, sir.

Q. He deposited on that date, \$10,000.00, didn't he?

A. Yes, sir.

Q. Now, then, again in November, 11-3, \$75,000.00?

A. Yes, sir.

Q. December 1st, \$6,156.00; January 7th following, \$8,000.00, \$4,000.00, \$6,200.00, \$21,743.83. What was the amount of the deposits that he made in the Treasury after the 3d—on and including the 3d day of November, 1915?

Senator Henderson: Mr. President, we would like to know what he means by "he made?"

General Crane: "He made,"—the Governor of Texas.

Senator Henderson: The Governor?

General Crane: Yes, sir—of funds that he had in banks somewhere.

Q. Can you figure that up in about two minutes?

A. I haven't a pencil.

Q. Here in one (handing witness a pencil)?

A. (Figuring.)

Q. You say, then, that on November—

A. November 2d.

Q. November 2, 1915?

A. He had deposited \$104,254.35.

Senator Lattimore: How much?

A. That included, you know that—I have included that \$54,000.00.

Q. No, he hadn't deposited that \$54,000.00, had he?

A. That \$54,000.00? No.

Q. Well, what I want to get at is

the amount he deposited after November 1st, not what he deposited before—after and including the first deposit in November?

A. Well, now, I don't know as I understand exactly your question.

Q. Well, here, let us get it right here, please—take these amounts down as I give them to you, please?

A. Well, I have got them down, I think I understand your question.

Q. What do you have—all right, then, what did he deposit?

A. Well, up to that date he had deposited—

Q. No, no, you do not get me at all?

A. All right, then.

Q. Beginning the 3d day of November, 1915, he deposited \$5,000.00, didn't he?

A. Yes, sir.

Q. All right. Now, on the 1st day of December he deposited \$6,156.00?

A. Yes, sir.

Q. On the 7th day of January, 1916, he deposited \$8,000.00, didn't he?

A. Yes, sir.

Q. On the 4th day of January—4th day of March, 1916, he deposited \$4,000.00, didn't he?

A. Yes, sir.

Q. On the 2d day of February it seems—we had overlooked a point—he deposited \$6,200.00, didn't he?

A. Yes, sir.

Q. Now, on the 5th day of April, he deposited \$21,743.83?

A. (Figuring).

Q. All right. Now, how much money was that that he deposited after the 1st of November, 1915?

A. These figures show \$51,099.83.

Q. All right. Then, if that fifty-one thousand and how many?

A. \$99.83.

Q. If that \$51,099.00 had been in the State Treasury instead of in the Temple State Bank, or some other bank, you could have paid some of those deficiency warrants, in addition to what was paid, couldn't you?

Mr. Hanger: I object, because it is argumentative.

The Chair: I sustain the objection.

General Crane: The objection is sustained?

The Chair: Yes, sir.

General Crane: Very good. I think that is obvious anyway.

Mr. Hanger: May I see that sheet when you get through?

General Crane: Yes, it is for the public use.

Mr. Hanger: Well, I didn't want to take it while you wanted to use it.

Q. Now, the calls that you made of these drafts—of these warrants, they were in the order in which they were issued I assume,—now, were they, or otherwise?

A. They were, yes, sir.

Q. There was no favoritism played in the business?

A. None whatever.

Q. The first call, as you say, was made here on the 1st of November, was it?

A. Yes, sir.

Q. For \$137,000.00?

A. Yes, sir.

Q. Being warrants up to 5850?

A. Yes, sir.

Q. Now, your next call was the 9th day of November, 1915, it seems, for \$195,000.00?

A. Yes, sir.

Q. That took them up to 7350?

A. Yes, sir.

Q. On the 22d day of November, 1915, you made another call for \$176,000.00, which seems to take them up to 10,800?

A. Yes, sir.

Q. Now, the Gross Construction Company warrant of 11-3, 1915 is 8228, isn't it—8228?

A. 8229.

Q. Well, 8228, outside of it, that, it ought to be there—8229, in any event. Now, on the 11-30, 13,191, isn't it?

A. Yes, sir.

Q. Now, when was the call made that would include that last 11-30th warrant for the Gross Construction Company?

A. It was the 13th day of December, 1915, that is \$80,000.

Q. Yes, the 13th day of December. Could you tell—of course, you could not, I assume, tell, on November 3rd, when the various drafts would be paid, or the various warrants would be honored?

A. No, sir, could not.

Q. That would depend on the coming into the Treasury of the revenue sufficient to meet them?

A. Would depend altogether on the amount of revenue received.

Q. Why was this statement treated as general revenue—is that the custom in the Treasury Department, otherwise, in matters of that sort?

A. Unless there is an appropriation being made—I mean a deposit being made where there is a special

law setting forth where that deposit shall be made, why, it is deposited in the general revenue.

Q. Yes, that is the general custom?

A. And the fact that the Legislature had appropriated the money to rebuild this Canyon Normal, together with \$100,000 insurance, why, we took it for granted that it should all come out of revenue, and the \$100,000 be deposited to the credit of general revenue.

Q. To be sure, to be sure. If—state whether or not the Canyon City funds had been intact whether there would have been any deficiency created until these funds would have been used by the State?

A. I couldn't answer that, General.

Q. Well, wouldn't you know whether there would be a deficiency until these funds were exhausted, would they declare a deficiency when the money was in the Treasury?

A. Well, it would just only extend the deficiency to the—

Q. I am not asking that, I am asking you would you have declared a deficiency with the \$50,000 or the \$100,000, as it might be, in the State Treasury?

A. Not on the day the deficiency was declared.

Q. No, not on the day?

A. It would have been delayed until the \$50,000 was exhausted.

Q. And the vouchers of the people who were owed by the State, of that date, too, would have been promptly paid until that amount was exhausted?

A. Yes, sir, certainly so.

Q. Yes. Now, if the State's account was deposited in the Treasury, it would have likewise delayed the deficiency?

A. Any money that belonged to the general revenue that had not been deposited at that date would have.

Cross Examination
By Mr. Hanger.

Q. Do you know whether the State Treasurer had any substantial amount of money, or any for collection, in November and December, 1915?

A. I do not.

Q. That is not the period of the heavy collections in the Secretary of State's office, is it?

A. I don't think so, Mr. Hanger, I think it is—

Q. Prior to May 1st?

A. Prior to May 1st.

Q. Yes?

A. Of course, that is just from memory, though.

Q. Well, that is the period of time in which the franchise taxes are due?

A. Yes, sir.

Q. I mean the 1st of May? Now, this act of the Legislature that mention has been made—of which mention has been made, did you understand—did you not understand that that act of the Legislature specifically appropriated the insurance money to the building of the Canyon City Normal—to the rebuilding of the Canyon City Normal, West Texas Normal?

A. Why, Mr. Hanger, I couldn't answer you only just as a general impression; I perhaps read the law, but as I stated awhile ago, I understood that \$100,000 was in addition to the \$54,000 appropriated by the Legislature.

Q. Did you handle this particular item, or these items on the books of the State Treasury?

A. I handled them this far—which do you mean?

Q. The Gross Construction Company items, and the payments for the rebuilding of that building, the West Texas A. & M., did you handle that on the books of the State Treasury Department?

A. I handled them in so far as keeping account of the general revenue, expenditures of the general revenue, and those warrants came through my hands and onto my books.

Q. All right, all right, now. Did you understand that the Legislature appropriated specifically the insurance money for the specific and only purpose of rebuilding the burned buildings of the West Texas A. & M.?

A. Well, now, I will tell you, it had never been put up to me to pass upon whether that deposit ought to have been made to the general account or a special account kept of it.

Q. You understand, do you not, Mr. Holton, that if it was appropriated in the manner indicated in the question, that then it would be a

fund in which the special account should be held?

General Crane: I object to that as being argumentative. Let the statute speak for itself.

Mr. Hanger: No, no, I am asking for the policy of the department. He is asked for the custom of the department. I am simply asking along on the same lines, Mr. President.

General Crane: No, he is not asking the custom, he asked as to specific things being done.

Mr. Hanger: No,—

The Chair: Let the question be finished before I pass on it.

Q. Isn't it the practice and custom of your department that where a special act is passed appropriating a particular and specified fund for a specific purpose, say if the insurance money derived from the insurance on the building that was burned was appropriated for the rebuilding of the building, that would go into a special fund to be used for the special purpose named in the act, wouldn't it?

A. If we so construe it to be used that way.

Q. Well, but isn't that the custom of the department?

A. It is, where authorizing a subsequent appropriation, maybe; for instance, you take the Pure Food Department—

Q. No, let us keep on this, Mr. Holton.

A. Well,—

Q. Because—

General Crane: I think the witness has the right to make himself clear.

Mr. Hanger: All right, all right.

General Crane: Without limiting him.

Mr. Hanger: All right, he will not be limited.

Q. Go ahead and make your assertion.

A. Well, I say, when the Legislature appropriated \$50,000 and \$100,000 coming from the insurance on the Canyon Normal, that all must go into the revenue and be paid out of the revenue, then we don't so construe that as a special account, Mr. Hanger—not like we would the Pure Food fund, or the Game, Fish and Oyster fund, or numerous other funds that the law specifies shall be placed to the credit of a certain fund.

Q. Now, notwithstanding the fact that the law or act so making this appropriation was denominating it as it did, that you construed it as all coming out of the general fund?

A. Well, that is, our department construed it.

Q. Well, yes, I mean the department?

A. Of course, the Comptroller issued the deposit warrant depositing the money in the Treasurer's office to the credit of the general fund; it specified—might indicate who it was from, but it went on the pink wrapper to the credit of the general fund.

Q. Now, Mr. Holton, this \$101,607.18 of the amount that was used to rebuild that building, and that was used, I believe, for rebuilding the main part of the building, independent of the wings, that did not come out of the taxation, did it?

A. That \$101,000—\$101,000, no.

Q. That did not come from the taxes?

A. No.

Q. That was money that came from an insurance company that paid that amount in on policies of insurance held by that school when the building burned?

General Crane: Mr. President, I object to this witness' legal conclusion. That policy was doubtless paid for by the Texas people, the taxpayers, and I take it when the money was collected, the money likewise belonged to the Texas tax payers whose money paid for the policies.

Mr. Hanger: Oh, that is General Crane's argument. If it pinches, now, we are claiming then, that this money did not come from the money collected from the taxpayers throughout this State.

General Crane: No, that is obvious.

Mr. Hanger: Well, let's have it in the record, it cannot hurt if it is obvious.

General Crane: Well, that is already shown, about the collection. I was objecting to showing it did not apply to the general revenue.

The Chair: The objection, perhaps, is well taken.

Mr. Hanger: I won't ask what it belonged to.

Q. It did not come out of the taxes?

A. Well, that identical money came from the insurance company.

Q. That is what I say, that came from the insurance company?

A. So I understand it, yes.

Q. Yes?

Mr. Hanger (To his Associates): Are the acts of the Thirty-fourth Legislature here?

General Crane: May I ask the witness a question?

Mr. Hanger: Certainly.

Q. We desire to put into the record as a part of the testimony of this witness Section 5 of Chapter 9, the same being Senate Bill No. 56, of the Acts of the Thirty-fourth Legislature.

General Crane: No objection.

Senator Lattimore: Was that the Regular Session?

Mr. Hanger: The Regular Session, Senator. It was approved February 12, 1915, and took effect ninety days after adjournment (reading):

"Section 5. That the sum of \$100,000.00 insurance money collected on the Canyon Normal School, West Texas State Normal, and interest thereon, be, and the same is hereby appropriated in part payment of the new building for that institution now under contract, that the additional sum of \$54,754.00 be, and same is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the completion of the Canyon Normal School."

Q. Now, did you understand that to be the terms of the act, Mr. Holton?

A. Yes, sir.

Q. That is all.

Re-direct Examination
By General Crane.

Q. The State owned that building that was burned, didn't it?

A. Yes, sir.

General Crane: That's all.

Senator Lattimore: Mr. President.

The Chair: Senator Lattimore.

Senator Lattimore: If I might, without taking the time to write out the questions, I would like to suggest to counsel for one side or the other, that I should like for this witness to be asked if he knows to whom the checks that were sent over to that department were payable to and whether there was any particular fund—

General Crane: Checks sent from whom?

Senator Lattimore: From the Governor.

Mr. Hanger: Why, we have them here.

Senator Lattimore: You have the checks?

Mr. Hanger: The checks are here.

Senator Lattimore: Then, this other question I would like for one of you gentlemen to ask him—if it were possible for a man to bring a warrant to that department today—a fund on which a check had been issued or for which a check had been drawn on the same day, whether or not that warrant would be paid out of that fund or whether that check would go into the general fund and the warrant be paid in its regular order?

Mr. Hanger: According to the system they had—

The Chair: I think the Chair will have to find you gentlemen out of order.

Mr. Hanger: Now, Mr. Holton, I will ask you this question:

Q. Complying with that request, under the system that was followed with reference to this fund, that check would go—the money paid on the check drawn by the Governor would go into the general revenue, wouldn't it?

A. It would.

Q. And if there was a deficiency it would not be paid until it was reached in its regular order?

A. You mean a warrant that had been drawn against that?

Q. Yes.

A. It would not be paid, no, sir, until it was reached in its regular order, if we were on a deficiency.

Q. And general funds were in the Treasury sufficient to cover it and such others as were in a particular call?

A. Yes, sir.

Q. Now, if it had remained in a special fund for that specific purpose; then it would have been paid out as the money was put in on these checks as drawn by the Governor?

A. If we had had a special fund.

Q. Yes, that is what I say, if you had kept a special fund for this.

A. And the deposits as they came in had been credited, then of course the warrants against that fund would have been a special warrant, not a revenue warrant. However, it would have been issued—a special

warrant would have been drawn against that fund; we would not have drawn a revenue warrant against a special fund.

Mr. Hanger: Was that the question, Senator Lattimore?

Senator Lattimore: I didn't understand you.

Mr. Hanger: I say, was that the question that you—

The Chair—I have a question—

General Crane: Now, Mr. Holton.

Re-direct Examination
By General Crane.

Q. These checks would be presented to the Comptroller's Department, I take it, payable to J. M. Edwards, for the warrant?

A. No, sir, that is not the custom, General.

Q. What is the custom?

A. The checks would be presented to the State Treasurer and he would write a request to the Comptroller to issue a deposit warrant for the amount of the check.

Q. Well, the Comptroller would have the warrant, wouldn't he? He would have the check before him in writing the deposit warrant, wouldn't he?

A. Not necessarily so.

Q. Well, he would usually do it before charging it upon his books, wouldn't he?

A. He would charge it up from the deposit warrant.

Q. From the deposit warrant of the Treasurer?

A. Well, the deposit warrants are issued in triplicate, original, duplicate and triplicate.

Q. Who, the Comptroller?

A. Yes, and he keeps one of those.

Q. He issues them all?

A. He issues them all.

Q. That is what I wanted to get to. Suppose I wanted to deposit in the State Treasury ten thousand dollars; I make a check payable to the Treasurer; now, the Treasurer takes that over to the Comptroller's office and has a deposit warrant made out, doesn't he?

A. As I say, he doesn't necessarily take a check over there.

Q. Well, at any rate, the Comptroller makes his deposit warrant on the basis of that check, doesn't he?

A. Yes, sir.

Q. Certainly; and as he writes out

the warrants thus the deposits are made?

A. Yes, sir.

Q. Exactly?

A. Yes.

Q. One of them goes to the Treasurer—

A. He keeps one for himself.

Q. And gives one to the fellow—

A. Who makes the payment.

Q. That is all there is to it?

A. Yes.

General Crane: That is all.

Mr. Hanger: That is all.

Senator Lattimore: Mr. President, following the lead of the gentleman from El Paso again—

The Chair: But the Senator from El Paso has not done that lately.

Senator Lattimore: Hasn't he?

The Chair: Mr. Lattimore, send the questions up in writing, please. I have three questions here that I can propound and while they are being answered the Senator might write out his question.

Thereupon the Chair read the following question: "How much of the Canyon City Normal School money, insurance or otherwise, did the Governor get, if you know?" The Chair: By Dayton:

The Witness: I couldn't answer that, only for the amount that was deposited; the record shows that he deposited something over a hundred thousand dollars.

The Chair: All right. This one by Senator Hudspeth (Reading): "How would an appropriation—

Senator Hudspeth: I would like also to propound that to the attorneys on each side, the same question.

(The Chair continues reading question): "How would an appropriation made for a specific purpose like building the Canyon City Normal, get into the general fund?"

The Witness: Well, it would have to get in there by being deposited in there by a deposit warrant from the Comptroller's office.

The Chair: All right, here is one by Decherd (Reading): "Did the Comptroller draw a special or a general warrant against the West Texas Normal Fund?"

The Witness: A general warrant.

The Chair: Now, we will wait a moment for Senator Lattimore to finish writing his question.

Senator Lattimore: Mr. President, I could do it in much shorter time, orally.

The Chair: Yes, I know. Here is a question by Senator Caldwell which I will read to the witness (Reading):

"If these warrants were paid out of the general revenue, why was it necessary when the State was not on a deficiency basis for the Governor to make a deposit, before warrants should be issued and cashed in favor of the contractor on the Canyon City school?"

The Witness: Read that again, please.

The Chair: I will read it again; I didn't get it very well (Reading): "If these warrants were paid out of the general revenue, why was it necessary, when the State was not on deficiency basis, for the Governor to make a deposit before a warrant should be issued and cashed in favor of the contractor on the Canyon City school?"

The Witness: Well, I will answer that question in this way—on the appropriation ledger the Canyon City Normal was credited with the appropriation of fifty-four thousand dollars; as warrants were drawn against that account, they were charged up against the appropriation; when the appropriation had been exhausted, in other words, when the account had been taken up, then the custom was to advise the Governor that the account was taken up; that would be done, of course, when there would be another demand for a warrant. Then, as deposits were made, other warrants were drawn against that appropriation.

Senator Lattimore: Mr. President, I have been listening with one ear and writing with the other hand—I don't know whether I've got my question exactly right or not. It is something along the line of Senator Caldwell's.

The Chair: Listen to the question, this is question by Senator Lattimore which the Chair will read to the witness. (Reading.): "Before the State went on a deficiency on October 11, 1915, and after the fifty-four thousand dollars appropriated out of the general revenue was exhausted, when Gross Construction Company presented an approved estimate or warrant, would there—

Senator Lattimore: Would they be.

The Chair (continuing): "Would they be sent over to the Governor's office to get a check of similar size payable to the State Treasurer?" Let me read that question again be-

cause I didn't read it correctly. (Thereupon the Chair reread the question as follows:)

"Before the State went on a deficiency on October 11, 1915, and after the fifty-four thousand dollars appropriated out of the general revenue was exhausted, when Gross Construction Company presented an approved estimate or warrant—would they be sent over to the Governor's office to get a check of similar size payable to the State Treasurer?"

The Witness: After this fifty-four thousand dollars had been exhausted an estimate would come in from the Normal, say, for ten thousand dollars—the Governor would be advised that an estimate had been furnished against the Normal for ten thousand dollars, or whatever amount it might be—then he would issue his check and make a deposit to cover the amount of the estimate.

Senator Lattimore: I have another question which I wish propounded.

The Chair: All right, I will read some more. Another question by Senator Dayton. (Reading.): "Do you know the exact amount deposited by the Governor to the credit of the Canyon City Normal?"

The Witness: No, sir, I don't know the exact amount.

The Chair: This question by Senator Henderson. (Reading.): "At the time the Treasury went on a deficiency, how much of the Canyon City funds did the Governor have in his hands and how long was it before he paid the full amount in his hands into the Treasury?"

General Crane: That statement shows that.

The Witness: That is contained in the statement that they have here.

The Chair: Did you understand the answer?

Senator Henderson: I understood him to say that the statement that he had there showed the information.

General Crane: Yes, sir.

Mr. Hanger: Yes, sir.

Mr. Harris: Fifty-one thousand.

Senator Henderson: Does it show when it was finally paid in?

General Crane: No, it was paid in in installments.

The Chair: Senator Lattimore asks the indulgence of the Court while he writes another question.

In the meantime the Chair will read to the witness this question by Senator Caldwell. (Reading):

"Is it a fact that on your books the Canyon City School was credited with a certain appropriation from the general revenue and therefore no warrants could be paid out of this account after the fifty-four thousand dollars was exhausted until a deposit was made by the Governor to the General Revenue for the credit of this account?"

The Witness: That is true, yes, sir.

Senator Bee: I did not hear the answer of the witness.

Senator Caldwell: What was the answer?

The Chair: He said, yes, that is true.

The Witness: That is true.

General Crane: Now, Mr. President, if you will permit me, this will enable me to answer Senator Henderson's question, this is a statement from the Comptroller.

The Chair: All right.

General Crane: That shows when he made the last payment, doesn't it?

The Witness: Yes, sir.

General Crane: What was the date and the amount of the last payment?

The Witness: April 26th.

General Crane: What year?

The Witness: 1916.

General Crane: And what amount?

The Witness: \$21,743.83.

General Crane: Yes.

Senator Caldwell: Mr. President, without taking the trouble to write the question, I should like to ask—

The Chair: Just put your question in writing, Senator.

Senator Caldwell: Well, I wanted to ask whether the witness has already testified—I was a little late getting back from dinner—has this witness furnished a statement of all deposits made by the Governor to the credit of that account?

The Chair: Yes, sir.

Senator Caldwell: That has been included in the record?

The Chair: Yes, sir.

Senator Caldwell: The date and the amount?

The Chair: Yes, sir, that is the way the Chair understands it.

General Crane: Yes, sir, we have the Treasurer's statement in the record, which is the same thing.

The Chair: Gentlemen, Senator Lattimore asks the indulgence of the Court while he finishes the question he wishes to propound.

Senator Page: Mr. President, I would like to direct attention of counsel—I didn't get back exactly on time—I would like to direct the attention of counsel to the fact that we would like to have this point developed,—Mr. Gross of the Gross Construction Company, testified that he had two warrants issued by the Comptroller and he carried those warrants to the Treasurer's office and they were not paid; he carried them then to Mr. Sparks of the Texas Trust Company, and was compelled to discount them in order to get his money. I want to know from this witness—

The Chair (Interrupting): Senator, we desire,—

Senator Page (Interrupting): Mr. Presiding Officer, if we have got to stop—if we can't direct attention of counsel to points we want developed by them, but if we are obliged to retire to our desks and write out interminable questions, then this inquiry is going to take a very long time; and it occurs to me that even under the rules which this Senate has adopted, that I have a right to suggest to counsel that they develop a certain line of questioning—that they themselves develop that line. It seems to me that that is perfectly proper. I can't cross-examine the witness by written questions, nor can any other lawyer. I insist, Mr. President, that I have the right, as a member of this Senate—a Texas Senator,—to call the attention of counsel here in this case to the line of testimony I want developed. Otherwise we shall change the rules of this investigation and place it so that this Senate can get at the facts in this case. There is one thing about it, I can't retire to my desk and write out interminable questions which a witness cannot understand, because they are in writing. I insist that I have the right to direct the attention of counsel to the line of questioning I want to hear. I don't care if we have adopted a rule to the effect that the rules of the District Court are applicable so far as practicable, and further that questions must be submitted in writing. I say I have the right as a member of this Court, sitting as

a quasi judge, rather than as a jurymen, you may say, to direct to counsel the line of testimony I want developed, and I now want to suggest to counsel that he develop the number of warrants that were brought to his office, and whether those warrants were drawn upon the general fund or not, and I want to know whether or not the general revenue was in funds, and if they were, why he did not cash them. I insist—

The Chair: That has already been gone over, Senator.

Senator Page: Well, I haven't heard anything of the sort and I was here all the time except from two until ten minutes after two, and I haven't heard anything of the kind.

The Chair: Well, it was developed at an early stage of the examination.

Senator Page: Well, I want it developed again.

The Chair: I know the Senator from Bastrop does not want the Chair to be—he does not want to be in the attitude of asking something that is denied other Senators, and the Chair has, except to barely permit suggesting a line of questioning, the Chair has restricted the Senators to questions propounded in writing.

General Crane: The witness has given that information; he said they were drawn on the general revenue, and there was a deficiency when they were drawn.

Senator Page: That the general revenue was not in funds?

General Crane: Yes, sir.

Senator Page: Well, that is all I wanted to know.

The Chair: The Chair will propound these questions; the first a question by Senator Harley. (Reading): "Was there a deficiency warrant issued in favor of the Canyon City Normal building while the Governor, had any part of the Normal fund in his possession?"

The Witness: I couldn't tell whether there was—when the warrant was issued, whether there was a deficiency in the Treasury at that identical date or not.

The Chair: This question (reading): "The Act of 1915 appropriated \$100,000 'in part payment' of the new building of the Canyon City Normal School; and the additional sum of \$54,754 was appropriated 'for the completion' of said building.

Now, was the \$100,000 paid out on the building for the building, first, and the \$54,754 for the completion. In other words, which was paid first?"

The Chair: That is by Lattimore.

The Witness: The \$54,000 was exhausted first—was paid first.

The Chair: Any other questions, gentlemen?

Re-cross Examination By Mr. Hanger.

Q. Mr. Holton, if this fund—this \$101,000 had gone into a special fund, then there would have been no difference in the time that the State went on a deficiency from what it did, as it did, would there?

A. Well, if we had had this \$100,000—

Q. No, I say if it had gone into a special fund.

A. Oh, if it had gone into a special fund, no, sir.

Q. It would have made no difference as to the time?

A. No, sir.

Q. Now, what authority of law, or can you cite us to the authority—a Senator asked me to ask this question—authorizing the mingling of a special fund with the general revenue?

A. Why, Senator Hanger, the Treasury Department simply construed the law as we made the deposit.

Q. Oh, I see. There is, so far as you know, there is no provision of law—no statute authorizing the mingling of those funds; there is only a ruling or construction by the Department?

A. That was all; the fact that the appropriation was made out of the general revenue, why, we consolidated the whole thing.

Q. You do have special funds in the Treasury Department, haven't you?

A. Yes, sir.

Q. They arise or exist by reason of laws passed by the Legislature creating such special funds?

A. Yes, sir.

Q. And warrants against such special funds may be paid, and frequently are paid, when the general revenue is on a deficiency?

A. Yes, sir, that wouldn't affect the special fund.

Mr. Hanger: That is all.

Re-direct Examination
By General Crane.

Q. Mr. Holton, you are an expert in figures—will you add the amount—the payments that the Governor made into the Treasury, less that \$54,000, leaving that out? Some of these gentlemen wish it done.

Senator Lattimore: General, will you repeat that question?

General Crane: I want him to add—let me ask again, that you add first the amounts that were paid prior to November 1st, and those afterwards. Please make them in two separate statements.

A. How is that, now, General? I didn't catch your question.

Q. Take those made prior to November 1st—the deposits made by him.

A. Prior to November 1st?

Q. Yes, make one statement of that, and then those made subsequent to November 1st.

A. I see. (Witness makes calculation).

Senator Lattimore: Mr. President, may I be permitted to say this to General Crane—as I understand, on November 1st the State was not on a deficiency basis, but on November 1st they issued a call for a lot of warrants. You keep asking about November 1st, and they went on a deficiency basis on October 11th, but on November 1st they were not on a deficiency basis.

Mr. Harris: I understand they were still behind and making a lot of calls.

General Crane: I was getting the date of the calls, the first call for payment.

Senator Lattimore: As I understand, they were not on a deficiency basis on the 1st of November.

General Crane: Yes, they were.

Senator Lattimore: I understand they were issuing a lot of calls for warrants.

General Crane: They got some money, but didn't have enough to pay all the warrants.

Senator Henderson: General, he says they issued a call for warrants—(To the Chair): Am I out of order?

The Chair: I think so; I think Senator Lattimore was, too.

General Crane: Well, I guess I was out of order, too, Mr. President.

The Chair: Sir?

General Crane: I say I guess I was out of order, too.

The Chair: Yes, sir, I think so.

General Crane: I will take my share of it.

A. Now, General Crane, I will answer your question—these figures show up to November 1st, the Governor had deposited \$49,507.35.

Q. All right, now, after November 1st?

Mr. Hanger: Read that again, forty-nine what?

Witness: \$49,507.35.

Q. After November 1st?

A. After November 1st, yes, sir.

Q. Yes?

A. No, he deposited that up to November 1st—that was the amount deposited up to November 1st.

Q. Well, then, what was it from that date?

A. Then, since that date he deposited \$51,099.83.

Q. Now the total he deposited?

A. \$101,617.83 (100,607.18) that makes the total deposited by the Governor.

Q. You know whether that included the interest earned by the Colquitt loans?

A. No, sir, I do not.

Q. You don't know those items?

A. No, sir.

Q. Well, we will have to get that from the other matter here.

General Crane: That is all.

The Chair: Answer this question, please, Mr. Holton, by Senator Johnson of Hall. (Reading):

"When the State went on a deficiency on October 11, 1915, was that fact made public and published in the newspapers at once?"

The Witness: It was.

The Chair: This question by Senator Bee (Reading):

"The question may have been answered, but I would like to know when in 1915 the State went on a deficiency basis and when thereafter it went off of it?"

The Witness: October—about October 11th we went on a deficiency basis and in December, 1915, about the 30th. or possibly over in January, no, it was up in January sometime—I don't remember the date, possibly some time in January.

Mr. Hanger: But in the mean time there had been two or three calls for warrants, which you had paid?

The Witness: Certainly, yes, sir.

Mr. Hanger: So you were not on a continuous deficiency, but only part of the time?

The Witness: Part of the time.

Mr. Hanger: You went on a deficiency the 11th of October, and the first of October you issued a call for \$170,000.00 of warrants.

The Witness: The first of November.

Mr. Hanger: Yes, the first of November. You issued another call about the first of December—no, some time in November, didn't you?

The Witness: Some time in November.

Mr. Hanger: For \$185,000.00?

The Witness: Yes, sir.

Mr. Hanger: And then still another call in December for still an additional amount?

The Witness: Well, there were several calls; there was a call about every fifteen days.

Mr. Hanger: Now, you went on a permanent paying basis about the 1st of January?

The Witness: Soon after the 1st of January; I don't recall the exact date.

Mr. Hanger: Does that answer it, Senator?

Senator Bee: Yes, sir.

The Chair: Any further questions?

General Crane: No further questions.

Mr. Hanger: That is all.

The Chair: Call your next witness, gentlemen.

The Proponents called,

H. A. TURNER,

who being sworn by the Chair as follows:

"You do solemnly swear that the evidence you give on this hearing of the Senate of Texas of the impeachment charges against James E. Ferguson, Governor, shall be the truth, the whole truth, and nothing but the truth, so help you God,"

Testified as follows:

Direct Examination.

By Mr. Harris.

Q. State your name?

A. H. A. Turner.

Q. What is your business?

A. I am Secretary-Treasurer of the Texas Trust Company.

Q. In such position do you have

charge of their books, the custody of their books?

A. Yes, sir.

Q. Did you, at my request, get a memorandum from the books relating to the purchase of warrants from the Gross Construction Company?

A. I did.

Q. When did you purchase those warrants, and in what amounts, the first purchase?

A. On November 3, 1915, we purchased two warrants, one for \$8,732.90, and the other—

The Chair: A little louder.

A. —the second warrant for \$5,186.70. The two totaled \$13,919.60.

Q. What was your information, at the time of that purchase, when it would probably be paid, when you could collect it, if you had any information?

A. No, I didn't have any, General, none other than the knowledge that when the money would get into the Treasurer's office in the fall.

Q. Could you tell with any certainty when it would be reached?

A. No, sir.

Q. Was there any favoritism shown your bank in the matter of paying?

A. No, sir, there was not.

Q. None shown you?

A. No, sir.

Q. What discount did you make on that \$13,000.00?

A. One per cent, we issued our check for \$13,780.41, in payment for those two warrants.

Q. Your books, do they show when it was paid?

A. No, sir.

Q. You have to get that from the Treasurer's record, do you not. Did you purchase any other warrants from the Gross Construction Company any other date?

A. I find on December 1, 1915, we also purchased two warrants of the Gross Construction Company, one for \$6,402.20—

Q. What was the number?

A. Warrant 13192. And another warrant for \$7,291.30.

Q. What number?

A. 13191.

Q. What is the total of the two warrants?

A. \$13,693.50.

Q. What was the discount?

A. \$60.00.

Mr. Hanger: What was that date?

A. December 1.

Q. What was the total amount now, of the warrants?

A. \$13,693.50.

Q. The amount you received for discounting it was \$60.00?

A. Yes, sir, we issued our check for \$13,693.50.

Q. Less than one-half of one per cent?

A. Yes, sir.

Q. What were the Austin banks charging for discounting warrants at that time? Were their charges greater or less than the other banks?

A. Most of the time we were charging less than the local banks.

Q. How much less?

A. Well, I remember at a time they were charging two per cent we were charging one, in November, I think you will find most of the Austin banks were charging two per cent discount and we were charging one. Our discount varied from one-half of one per cent to—

Q. You had two drafts, same two paid upon that main building, or was one upon the wing?

A. We have two warrants, one was for the main building, the other was against the appropriation for the wing.

Q. One warrant in each instance for the main building, and the other one a warrant in each instance for the wing?

A. Yes.

Q. That's all.

Cross Examination
By Mr. Hanger.

Q. When did the State pay you this money?

A. I don't know, Senator, I could look up and see—

General Crane: In order that we may have it right we offer this statement in connection with this witness' testimony. (To Mr. Hanger): You waive its reading, I presume?

Mr. Hanger: Yes, as soon as I get through.

Q. Do you have any recollection about how long you were without this money?

A. No, sir, I couldn't tell, because we were buying a great many warrants and I couldn't recall the history of any particular warrant.

Q. But you paid the money out. Did you have the money on hand, or pay it with checks on banks?

A. We paid it with checks on banks.

A. What bank?

A. The Austin National in this instance.

Q. I am not able to find out when the Texas Trust Company here bought—

Mr. Harris: Well, that is the number of the voucher, 8229, discounted on November 3 and paid November 23.

Mr. Hanger: 8229, did you say?

Mr. Harris: 8229 is the number of the voucher.

Q. What is the number of those, Mr. Turner?

A. Which, the number of the warrants?

Q. Yes.

A. Now, on November 3 the warrants were numbers 8328 and 8229, 8728 was for the wings.

Q. 8728, that does not appear here?

A. That is out of another appropriation, 1046.

Q. Now, it appears that you were without the use of that money for twenty days, you discounted that one per cent. What is the number of the other two?

A. 13,191 and 192.

Q. These two warrants, I don't see them on here?

A. You will have 191.

Q. 13,191?

Senator Henderson: Mr. President, I don't want to ask the witness a question, but counsel have been asking questions here with reference to the wing?

Mr. Harris: Here is the only reason, Senator, that I disclosed the warrants: He purchased two of the warrants, purchased this in connection with this appropriation for the building—

Senator Henderson: My understanding is the act appropriates the \$100,000 insurance money and the further sum of fifty odd thousand dollars for the completion of the building.

Mr. Harris: I understand that was for the main building. I may be mistaken.

Senator Henderson: Here is the language I get: "That the sum of \$100,000 of insurance money collected on the Canyon Normal School (West Texas State Normal) and the interest thereon, be and the same is hereby appropriated in part payment of the new building for that institution now under contract; that the additional sum of \$54,754 be and

the same is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the completion of the Canyon Normal School." Now, I don't find anything about the wings in this Act.

The witness: I can answer that if you want me to.

Mr. Harris: He says he can answer it, I don't understand it myself, Senator.

The Witness: This is an appropriation for the main building of \$100,000 of the insurance money, and \$54,754 is for \$154,754 for the main building. Now in addition to

that, and effective September 1, 1915, an appropriation was made of \$69,126 to build some wings.

Mr. Harris: Is that correct, Senator Hanger?

Mr. Hanger: Yes, sir.

Mr. Harris: I don't know myself except what the witness told me.

Senator Henderson: From this article I didn't understand it.

Mr. Harris: Now let this go in.

Mr. Hanger: Yes, the whole paper is in and the stenographer will copy it.

(The document referred to is as follows:)

REBUILD WEST TEXAS NORMAL.

1915.			
2-20, Gross Const. Co.	18081	2-24	\$ 5,939.38
2-24, Geo. A. Endress	18205	2-25	105.45
3- 3, Gross Const. Co.	19324	3- 6	13,994.20
3- 4, Houston Chr. Pbg. Co.	19507	3- 8	9.62
3- 4, Express Pbg. Co.	19508	3- 9	8.97
3- 4, Austin Stamin Co.	19509	3-19	9.66
3- 4, Dallas M'g. News	19510	3-19	9.62
3- 5, G. A. Endress	19616	3- 8	1,000.00
3-18, G. A. Endress	20666	3-20	174.95
4- 7, Gross Const. Co.	23243	4-12	27,260.12
5- 7, Gross Const. Co.	26250	5-10	10,364.90
5-11, Geo. A. Endress	26702	5-13	102.85
6-10, Gross Const. Co.	29881	6-12	8,353.80
6-16, Geo. A. Endress	30276	6-21	98.65
7-16, Gross Const. Co.	32256	7- 9	10,432.05
8- 7, Gross Const. Co.	34771	8-10	13,507.35
10- 2, Gross Const. Co.	3310	10- 5	11,566.80
10- 3, Gross Const. Co.	8829	11-23	5,186.70
11-30, Gross Const. Co.	13191	12-16	7,291.30

1916.			
1- 7, Gross Const. Co.	20422	1- 8,	7,618.55
1-25, Texas Trust Co. Assig.	23508	1-28	194.75
2- 2, Gross Const. Co.	23941	2- 4	6,201.60
1-27, G. A. Endress	23507	1-28	301.50
3- 4, Gross Const. Co.	28599	3- 9	3,824.15
4-26, Gross Const. Co.	37330	4-28	6,442.33
4-26, Gross Const. Co.	37328	4-27	15,000.00
6-17, Geo A. Endress	46332	7-19	306.50
10-23, R. L. Wagner	6236	10-30	21.35
Jno. Bergein	6237	10-30	32.50

First call after going on deficiency:

1915.			
11- 1, for 137,000, being warrants up to			5850
11- 9, for 195,000, being warrants up to			7350
11-22, for 176,000, being warrants up to			10800
12- 6, for 198,849, being warrants up to			12450
12-13, for 180,000, being warrants up to			
12-15, for 209,000, being warrants up to			13650
2-12, Def. App.	\$54,754.00	10- 2, D. W. No. 270..	10,000.00
5- 5, D. W. No. 2218..	6,000.00	11- 3, D. W. No. 580..	5,000.00
6-11, D. W. No. 2610..	10,000.00	12- 1, D. W. No. 772..	6,156.00
7- 7, D. W. No. 2794..	10,000.00	1916.	
8- 9, D. W. No. 3124..	13,507.35	1- 7, D. W. No. 1156..	8,000.00

3- 4, D. W. No. 1675.. 4,000.00
2- 2, D. W. No. 1322.. 6,200.00
4-26, D. W. No. 2291.. 21,743.83

Q. You say you gave a check on the American National Bank?

A. On the Austin National.

Q. On what fund, the fund of your bank there?

A. We had a considerable fund on hand at that time.

Q. All I want of answer is so we can get it in the record?

A. We had a fund in all of the Austin banks.

Q. My question is, did you draw this check on your fund in the Austin National Bank?

A. Yes, sir.

Q. That's what I wanted to get.

The Chair: This question, Mr. Turner: "What rate of interest did you receive for the two warrants cashed for the Gross Construction Company." (By Senator Page).

A. I have just stated that I don't know what date those warrants were paid. I stated that the ones that we cashed November 3 were paid on November 23.

Mr. Hanger: Yes, sir, that's what the Treasurer's record says.

A. In that case that would be twenty days.

Senator Page: I want to know what rate of interest he collected, I want him to figure it out and let me know what rate of interest he collected.

Mr. Hanger: You will find from this record, the one of December 1 was cashed December 16, now you can figure that.

Senator Page: What rate of interest did he realize?

Mr. Harris: I will get that for you.

Q. You charged \$60?

A. \$60 on practically \$14,000.

Q. Figure that for sixteen days—did you collect one per cent on both of them?

A. No, we collected less than one-half of one per cent on one and one per cent on the other.

Q. Go ahead, figure this one first.

A. Approximately it would be between eight and nine per cent.

Q. That is on the December 1st transaction?

A. Yes, sir.

Senator Hudspeth: I didn't catch the witness' answer.

The Witness: Between eight and nine per cent.

Senator Hudspeth: Per annum?

The Witness: Yes, sir.

Q. Now, what would it be on which you got one per cent from November 3, to November 23, for twenty days?

A. If it had been borrowed for one month it would have been on a twelve per cent basis. One per cent per month. Two-thirds would be about fourteen or a little better.

Q. It would be sixteen, wouldn't it, be one-third of a month and one-third of twelve is four, you add four per cent to twelve wouldn't you? It would be exactly sixteen.

A. Yes, about, approximately sixteen per cent.

Mr. Harris: At the time you bought these deficiency warrants could you tell how long you would have to hold them?

A. No, sir, I could not. No means of telling.

Mr. Harris: No means of knowing?

A. Or of knowing, no, sir.

Q. How long were you clerk in the Treasury Department?

A. Eight years.

Q. You were familiar with the ordinary course of collections?

A. Yes, sir.

Q. That's all.

The Chair: I will read this question, Mr. Turner, by Senator Page: "I want to know how many warrants the Texas Trust Company purchased in 1915, and what the average rate of interest was that the Texas Trust Company realized on those purchases of warrants. You were in touch with the Treasury and know about how long you would have to hold the warrants, were you not?"

A. Well, of course, I could look up, figure up the total amount of warrants that we bought, but I could not tell off-hand at all. I can only say this in a general way, Senator Page.

Senator Page: I don't expect him to have the information off-hand, but I would like for him to get the information and have it here. The latter part of the question I would like for him to answer now.

The Witness: What was the latter part of the question?

The Chair: "You were in touch

with the State Treasury and knew how long you would have to hold warrants, were you not?

A. I don't know any better than any other Austin banker, or anyone else.

Senator Page: That wasn't the question I asked you. I asked you if you were in touch with the Treasurer's Department and knew?

The Witness: Oh, no—I don't know.

Senator Page: Approximately?

The Witness: I only knew according to what I could figure.

Senator Hudspeth: The question is, were you or were you not in touch with the State Treasury at that time?

The Witness: I don't know what you mean by being in touch?

Senator Hudspeth: Had you communicated with him?

Mr. Hanger: I will ask the question.

Q. Had you made inquiry of the State Treasurer, or anybody in that department?

A. As to when they might be paid?

Q. As to the course of collections, when the probable payments would be made?

A. We could learn from the Comptroller's office and the Treasurer's office something as to the total volume of warrants issued and outstanding.

Q. Well, you did do that, didn't you?

A. We couldn't tell anything about what the receipts would be, we could only estimate that as any one else.

Q. But you did it though, didn't you, Mr. Turner?

A. We tried to keep in touch with the warrants issued and outstanding.

Q. Didn't you keep in touch, also, with the collections coming in and the reports of the tax collectors, the amounts of money being turned in?

A. No, sir.

Q. When was the regular time for the tax collectors to report their money in that time of the year?

A. The usual heavy receipts of the Treasurer's office were in January and February.

Q. I see, but didn't you at that time, he asked the question that is sought to be known, didn't you at that time keep in such touch and

have such information from the Treasurer's Department that you could form a fair estimate about when a given warrant might be paid?

A. No, sir, I could never form—I could form only what in my judgment was a fair estimate, but frankly I must add, sometimes I hit it.

Q. Could you—you were asked another question which was propounded in writing just now, but to get down a little further than it goes, what the volume of your purchases were in 1915?

A. Could I estimate that?

Q. Yes, sir.

A. Not off-hand.

Q. What is the volume of your purchases this year?

A. We haven't bought any this year, the State has not been on a deficiency.

Q. Haven't you bought any of these penitentiary appropriations?

A. Oh, yes, but that is not warrants; these were state warrants.

Q. How much of them?

A. Of the penitentiary—

General Crane: Mr. President, we are trying to investigate the conduct of the Chief Executive of this State and I decline to be dragged into the investigating the general course of business of all of the Austin bankers unless it affects the Governor's case, and I think it is utterly preposterous and out of all reason that we take up our time here dealing with matters with which we have no concern, in the first place, and certainly they are utterly irrelevant to the matter the court is trying. If these people have done anything wrong, get after them in a suit by themselves, and let's finish what we are trying to do.

The Chair: I don't see the relevancy of it.

Mr. Hanger: The only purpose, the whole inquiry, of course, was about an attempt to establish the fact that some Senators had asked about and seemed to be interested in, as to the rate of interest ordinarily and customarily charged. I don't care anything about who it was that bought this from this year. I was trying to get at the rate of discount. That is, the rate of discount this year, and see from that whether or not there was any fixed amount of discount on a given purchase, or how they figured it, that is all, as

testing, not the truth by the correctness of the figures testified to by the witness about the transactions in 1915. As to that it is relevant, we think, and it serves no other purpose, not even asked for any other purpose, but simply to find out the manner and mode of calculations of this witness, as to these discounts.

General Crane: Well, he has given all of that, given even the price right.

Senator Hudspeth: I want, Mr. President—

The Chair: Mr. Hanger, are you through?

Mr. Hanger: I think so, just a minute, Mr. President.

Q. Mr. Turner, you are secretary; you were secretary and are now, probably, secretary of the West Texas Normal Board?

A. Of the School Board of Regents?

Q. Yes.

A. Yes, sir, for the four Normal schools.

Q. For the Normal schools?

A. Yes, sir.

Q. You were, on November 3, 1915, Secretary of that Board?

A. Yes, sir.

Q. You knew, did you not, and you were entirely familiar, were you not, with the Senate Bill of the Thirty-fourth Legislature appropriating the \$100,000.00 and accumulated interest realized from the insurance on the burned buildings at the Canyon Normal as well as the \$54,754.00 additional?

A. I knew that that money was available, yes, sir.

Q. You knew there had been an Act passed appropriating especially and specifically this \$101,607.18 realized from the insurance policies, you knew that didn't you?

A. Yes, sir.

Q. You knew that that was a special appropriation made by the Legislature, didn't you?

A. Yes, sir.

Q. You knew it at the time that you bought those warrants at a discount, you knew it then?

A. Yes, sir.

Q. Now, part of this money derived from the insurance policy had been in your bank previous to Governor Ferguson's coming into office, had it not?

A. Yes, sir.

Q. Been there several months?

A. We had \$10,000.00 from about June 24th until the end of the year, about six months.

Q. You were at that time Secretary of the Normal Board?

A. Yes, sir.

Q. The President of your Company was President of the Normal Board?

A. Yes, sir.

Q. That's all.

Re-direct Examination
By Mr. Harris.

Q. What rate of interest were you paying on that?

A. Five per cent.

Q. Do you know what rate of interest was paid when the Governor took charge of it?

A. That was under Governor Colquitt.

Q. I mean when Governor Ferguson took charge of it, do you know what interest it paid?

A. We paid it back to Governor Colquitt at interest at five per cent.

Q. Do you know what Governor Ferguson paid at the time he took charge of the fund and put in in his bank?

A. I know no interest was accounted paid for that fund.

The Chair: That all, Mr. Hanger?

Mr. Hanger: Yes, sir.

The Chair: I have some questions here which I will read to you. This is by Senator Bee: "Then the Governor had no part of the fund if it was not in his custody?"

A. No, sir, no, sir, he had no part of it.

The Chair: This is by Senator Page: "Does the State Treasurer own any stock in the Texas Trust Company?"

A. No, sir.

The Chair: Wait a minute: "Have you been loaning him any money during the last two years?"

A. No, sir, I have not.

The Chair: All right, I have a question here by Senator Hudspeth: "Mr. Turner, did you, at the time, or subsequent thereto, of the purchase of the two warrants from the Gross Construction Company, communicate with the State Treasurer or any one in the office as to the probable time when these warrants would be paid?" Please answer this question yes or no.

A. Will you read it again, please.

The Chair: All right, "Did you at the time, or subsequent thereto, of the purchase of the two warrants from

the Gross Construction Company, communicate with the State Treasurer, or any one in his office as to the probable time when these warrants would be paid?" Please answer this question yes or no.

A. Is that Senator Hudspeth?

The Chair: Yes, sir.

A. Senator, if you were to ask me to answer that yes or no, I would answer no. I want to explain.

The Chair: You may explain if you want to.

A. I will say we occasionally would ask the State Treasurer if any funds were accumulating, or anything of that kind, but as to ever mentioning a time when a particular warrant would be paid, I never did ask such a question. Any banker in town, or any individual could write to the State Treasurer and ask any time when any particular warrant would be paid, but so far as I know they never were told that, I never asked that question because he couldn't tell any better than we could.

The Chair: A question by Senator Lattimore:

"Were you with Mr. Gross, of the Gross Construction Company, and Mr. Goeth, Chairman of the Normal Board, at any time when the Governor was asked by Mr. Goeth if he was going to pay interest on the \$100,000.00 insurance money? If so, what was said by each of them on that point?"

A. I wasn't present on any occasion.

Re-direct Examination By Mr. Harris.

Q. This question, did your bank give bond to secure the return of that ten thousand dollars in addition to the five per cent interest?

A. We deposited with the Governor first mortgage loans in excess, something like ten per cent in excess of the ten thousand dollars.

Q. In excess of ten thousand dollars?

A. In other words, we had eleven or twelve thousand dollars.

Q. Were they good securities, in your judgment?

A. The securities we had were double securities.

Q. Land lien, were they?

A. How is that?

Q. First lien on land?

A. Yes, sir.

Re-cross Examination By Mr. Hanger.

Q. Mr. Turner, have you in your possession the original contract made with the Gross Construction Company by the Board of Regents?

A. Yes, sir.

Q. Have you it with you now?

A. No, sir.

Q. Do you know when the original contract provided that the building should be completed? I only ask you that to save you the trouble of going and getting it?

A. Yes, sir.

Q. Can you give that from memory?

A. The contract was let in October, my recollection is.

Q. December 12, 1914, wasn't it?

A. My recollection is that the first of September, 1915, was the time.

Q. The first of September, 1915?

A. Yes, sir.

Q. All right. Now you said you were in the State Treasurer's office eight years?

A. Yes, sir.

Q. That was six years under Mr. Sparks and two under Mr.—

A. No, sir, I never was in the Treasurer's office under Mr. Sparks; I was there under Mr. John W. Robins.

Q. You were never in under Mr. Edwards?

A. No, sir.

Q. Mr. Edwards was Mr. Sparks' chief clerk and then succeeded Mr. Sparks? You were never under either of them?

A. No, sir.

Senator Henderson: Unless I might suggest to counsel, this question occurs to me? I would like to know if they had two contracts?

Q. Were there two contracts by the Board with reference to the construction of that building, one with reference to the main building and one with reference to the wings, or was it all in one contract?

A. No, it is my recollection that it was covered by two contracts. I would not be positive about that but I think that is correct.

Q. The latter contract was with reference to the wings?

A. Yes, sir.

Q. When was that made, do you know?

A. No, sir, I don't.

Q. Will you get those dates?

A. Yes, sir, I can get them for you.

Senator Johnson of Hall: Mr. President—

The Chair: The Senator from Hall.

Senator Johnson: I want to enlighten him on this question he is now being interrogated about. Will I have to put that in writing? I just want to refresh his memory about that.

Senator Lattimore: Mr. President.

The Chair: The Senator from Tarrant.

Senator Lattimore: If the Chair will pardon me for making this reference, the Chair will understand the spirit in which I am doing it—

The Chair: The Chair understands the spirit in which all of you are doing it.

Senator Lattimore: We are not interrogating the witness and therefore get up the usual and customary confusing that may result, but to let the attorneys know the points that are in our minds upon which we desire enlightenment. I think a great many jurors, if they knew better they had the power to do it, they would get better at the truth of things. I don't think these rules are intended to prevent us from suggesting to counsel other matters we would like to have enlightenment upon at all.

The Chair: The Chair has not felt that way about it. The Chair does feel that that precludes the Senator from getting evidence as the Senator from Hall seems to think by asking the question.

Senator Bee: Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: It seems to me that if any Senator wants to elicit information he should elicit it in writing.

The Chair: I will read this question to you, Mr. Turner: "When were the wings to be completed under the contract?"

A. I would have to refer to the contract on that, without confusion about, the plans were changed so much.

Senator Woodward: Mr. President.

The Chair: The Senator from Erath.

Senator Woodward: I want some information about the rules; if I want to bring out some questions, could I speak to either of counsel and have them ask the question, or could I write it and have them ask the question for me?

The Chair: I think so.

Senator Woodward: That would not violate the rules?

The Chair: I don't think so. I think if you ask the counsel they would ask the question.

Senator Bee: Another question. Mr. President.

The Chair: Senator Hudspeth is asking the indulgence of the Court, and here is a question Senator Bee propounds: "Did the Gross Construction Company have both contracts."

A. I don't know, the contracts will show that. There were two contracts, one for the main building, that frame part of it, the steel part of it, the other was installing the heat, electric wiring, etc. I believe Gross Construction Company had both the main building and the wing, that is my recollection of it.

The Chair: I will read this question, Mr. Turner, by Senator Hudspeth: Mr. Turner, will you please state whether or not the deficiency warrants purchased by you were for the construction of the main building or the wing? This may have been answered, but I do not recall.

A. I stated that in each instance there were two warrants, one for the main building and the other was for the wing.

The Chair: Any further questions?

Senator Dayton: I have a question, Mr. President.

The Chair: "Mr. Turner, who had the contracts on both jobs, for the plumbing and wiring and heating?" (By Dayton.)

A. I think Donnelly & White, a firm here in Austin, had that contract.

The Chair: Any further questions?

Senator Henderson: One more question, Mr. President.

The Chair: Mr. Turner, I will read this question sent up in writing by Senator Henderson: "How did you distinguish between the warrants for the wings and the main building?"

A. Well, when I began to look

this data up I figured that was the quickest way to arrive at the dates.

Senator Bee: I didn't hear you.

A. (Continuing). Being secretary of the School Board of Regents, and having the records of the West Texas Normal College before me, I figured that I could arrive at the dates these warrants were handled quicker than I could from my general ledgers of the Texas Trust Company's books, and I went to those accounts.

Re-direct Examination
By General Crane.

Q. Did the warrants disclose what they were given for, whether for the wing or the main building?

A. The appropriation does.

Q. Well, do not the warrants disclose the appropriation drawn upon?

A. Oh, yes.

Q. Then the warrants disclose whether for the wing or the main building?

A. Yes, sir.

Q. I mean, indicating the appropriation they were drawn on?

A. Yes, sir.

Q. Anybody who had access to the Comptroller's office would know that?

A. Yes, sir.

Q. Each appropriation is marked X, Y or Z, whatever it may be?

A. Yes, sir.

Q. And indicates a certain thing?

The Chair: The witness will stand aside. Call your next witness, General.

Thereupon the Proponents recalled

SILLIMAN EVANS,

who, having been previously sworn, and having previously testified, now testified as follows:

Direct Examination
By General Crane.

Q. Mr. Evans, you are the newspaper reporter who sought to interview Governor Ferguson in Dallas on what date—the 20th, I guess, of June, 1917?

A. Yes, sir, that occurred on the 20th of June.

Q. Now, glance at that interview and see whether or not that occurred between you and the Governor?

A. Yes, sir.

Q. You were then representing the Dallas News as a reporter?

A. Yes, sir.

General Crane: We now offer this in evidence: "Governor Ferguson was asked, categorically, a series of questions touching upon the University."—

Mr. Harris (Interrupting): What is the date of that paper?

General Crane: The 21st of June, 1917, the interview occurring the day before. "The questions and answers made by the Governor are: 'Do you expect to see the University of Texas open this fall?' 'I have nothing to say.' 'Will the University have an available fund for opening?' 'I have nothing to say.' 'Have you vetoed, do you believe, all of the appropriations for the University, or just the portions you indicated?' 'I have nothing to say.' 'How do you expect the University of Texas to employ teachers, when if there should be court litigation the legal matters could not be settled until in the fall and after the time when all the teachers obtain contracts for their year?' 'I have nothing to say.' 'Do you expect the dean of the school to assume control?' 'I have nothing to say.' 'Is it your opinion that deficiency warrants can be issued, the approved item for the dean's salary being the basis?' 'I have nothing to say.'"

Q. Now, as I understood you on cross examination awhile ago by Senator Hanger, you stated that Governor Ferguson in his Abilene speech said something about the University was going to open in the fall. Did he make such statement?

A. Yes, sir.

Q. Sir?

A. I don't know whether I said he said it would open in the fall.

Q. Don't know whether you said that? To refresh your memory, I will ask you—

A. (Interrupting). The report will show for itself.

Q. Well, the report does not contain the statement. See if you can find it in it.

A. He makes the statement here, General Crane, that he denies that he intended to close the University.

Q. But that's all that he did say?

A. Yes, he said he emphatically denied intending to close it.

Q. But he didn't state how he

was going to keep it open without any money, did he?

A. No, sir, not in that statement.

Q. And you sought to elicit that fact from him in the interview as to how he would operate the University with no appropriation?

A. Yes, sir.

Q. And he declined to say?

A. He declined to answer.

Mr. Hanger: I want to ask one question there.

General Crane: All right.

Cross Examination

By Mr. Hanger.

Q. Mr. Evans, this seems to be in the paper of June 21st. Now, that interview, then, took place on the 20th, the day before?

A. Yes, sir.

Q. Now, a little later on the Governor came to Dallas, did he not, when the East Texas Normal was located?

A. Yes, sir.

Q. Do you know what date that was?

A. No, I don't, but it was—the Governor ought to remember. It was while he was on his vacation, he came up there.

Q. I know, but, of course,—

A. (Interrupting) Some time in July.

Q. It was some time after this?

A. Yes, sir.

Q. Now, you understood what he meant to say was that he had nothing to say for publication?

A. Yes.

Q. Now, later on, on the day that the East Texas Normal School was located, the Governor came from his ranch up there to attend that meeting, didn't he?

A. Yes, sir.

Q. Now, you had a talk with him at that time on the same subject that you attempted to interview him here about, the University matters?

A. Yes, sir.

Q. He told you then that the University had all the available funds derived from leases, from tuition, and from other sources, about three hundred thousand dollars a year, didn't he?

A. Yes, sir.

Q. Didn't he tell you in substance that the University would open on that money and that later

on in the term after they were at work that he intended to issue deficiency warrants for the continued conduct of the school, didn't he, at Dallas, tell you that at Dallas?

A. Yes, sir.

Q. He told you then that he didn't have any idea on earth of ever seeing the University closed or having anything to do with closing it, didn't he?

A. Well, he didn't say it—

Q. (Interrupting) Well, not in that language, but in substance?

General Crane: Let him answer.

Q. Well, I say in substance that?

A. Yes, that the University would open.

Mr. Hanger: That's all.

Re-direct Examination

By General Crane.

Q. Well, now, let's see just what did he say about it, Mr. Evans?

A. Well, the Governor gave some figures of the money—

Senator Hudspeth: Mr. President, I can't hear the witness, and I am sitting in six feet of him.

The Chair: Speak louder, Mr. Evans.

A. Well, I can't.

Q. Well, go ahead and I will repeat after you.

A. He said a certain amount of money, as I remember about three or four hundred thousand dollars could be obtained from land money and money that the University had.

Q. All right. He said a certain amount, three or four hundred thousand, could be obtained from certain funds the University had, land money or otherwise?

A. Yes, sir.

Q. And what else?

A. And that would operate the University until, as I remember, he said during the year or to near the close of the year.

Q. During the year or to near the close of the year?

A. Yes, sir.

Q. Exactly—the three or four hundred thousand dollars?

A. At that time deficiency warrants could be issued on the basis of this veto.

Q. At that time deficiency warrants could be issued on the basis of that three or four hundred thousand?

A. Yes.

Q. Well, now, you didn't print that in the newspaper?

A. Yes, sir.

Q. When?

A. In the Dallas News of Sunday morning following the meeting.

Q. He didn't state, though, to you how he would supply such a large amount of money—how this would take the place of the large amount he had vetoed?

A. No, sir.

Q. Now, wasn't that statement made conditioned on carrying out his policy with the University, having it do the things he wanted done?

A. No, that was not the predicate at that time. I think it was going to be carried out the way he wanted it.

Q. Well, hadn't he in previous conversations said he would not do anything for the University unless and except his plans and policies were carried out?

A. Well, in that interview there, yes, sir, he said that.

Q. He said unless his plans and policies were carried out there would be no University. Well, now, those plans and policies involved the dismissal of Dr. Vinson and the dismissal of all teachers that were obnoxious to him?

A. He did not tell me so.

Q. But you knew in a general way those were his plans?

Mr. Hanger: We object to that.

The Chair: The objection is sustained.

Q. Didn't you know from his previous statements made to you that those were his plans?

Mr. Hanger: That calls for his conclusion.

The Chair: The objection is sustained.

General Crane: I am asking what he had previously stated, Mr. President.

Q. Did he state to you that in accordance with his plans Dr. Vinson and the others should be dismissed?

A. Well, of course, I knew that that was what he wanted.

Q. Yes?

A. But I could not say he told me that in those blunt words.

Q. Now, what paper was it that you printed that such were his purposes—what date was that—the date you put this interview in here?

A. Which one, General?

Q. The one of June 21st.

A. Is that the one in which I submitted the categorical questions?

Q. Yes.

A. That was June 21st.

Q. Well, you said something about his saying something about having his plans and policies carried out. Was it in that paper or some other paper?

A. If you will read down there you will see that that interview is a good deal longer, General. It may be that is what you want.

Q. Now, in that same interview I see you use this language—I want to know your authority for doing it: "He cares but little whether or not the University opens this fall."

Mr. Hanger: Well, now, I object to the newspaper reporter's comments.

Q. Where did you get the information upon which you based that comment.

Mr. Hanger: This is his witness, your Honor.

The Chair: Don't lead the witness, General.

General Crane: Sir?

The Chair: I say, don't lead the witness.

General Crane: I will try not to. I will call his attention to the fact, and want to know where he got his information.

Mr. Hanger: We think, Mr. President, what the Governor said is certainly admissible, but the comment of the newspaper reporter, veracious as I know he is, is not admissible here, because once in a while a newspaper reporter makes a comment that is his own conclusion—very rarely, possibly, but his conclusion, and the conclusion of Mr. Evans is not admissible, we respectfully insist.

General Crane: I am not offering that.

The Chair: The Chair instructed counsel not to ask for anything that merely calls for his conclusion.

General Crane: I am not. I am asking for the facts upon which he bases his statement.

The Chair: That is admissible.

Mr. Hanger: We don't object to those facts.

General Crane: My question is, on what statements of Governor Ferguson did he base these statements?

Mr. Hanger: We object to that.

That would be a conclusion. Let him state what the Governor said.

Q. Upon what, now, did you base that statement?

Mr. Hanger: We object to the question as leading.

The Chair: I think that is leading, having read his own statement to the witness.

Q. Use this paper to refresh your memory, please, and then state upon what you make that statement.

A. You mean this paragraph here, General?

Q. I mean this right here (indicating portion).

A. Well, now, this is one sentence in a paragraph.

The Chair: Louder, Mr. Evans, please.

A. I say this is one sentence in a paragraph in which the statement is made that he is maintaining an attitude of silence, and then I say further that he most emphatically does not want it opened, those in position to know say, if it is run by the same faculty and management that are now in authority.

Mr. Hanger: Well, now, we object to what those in position to know say.

Q. I am not asking you that, but upon what statements of Governor Ferguson, if any there were, that you made those comments?

A. Well, I talked to the Governor—

Mr. Hanger (Interrupting): We think that is leading, and he ought to be confined to what the Governor said.

General Crane: That is what I am trying to confine him to.

The Chair: I think he ought to be confined to what the Governor said.

General Crane: That is exactly what I will ask—upon what statements of the Governor—

Mr. Hanger: Well, now,—

General Crane: One moment, please.

Mr. Hanger: Beg pardon.

General Crane: All right, now. I want to know what the Governor said, if anything—I am not even assuming that he said anything—what did the Governor say in his hearing that justified his making that statement.

Mr. Hanger: The trouble about the General's question is that he starts out with the wrong assumption: that the Governor had said something that was the basis of a statement by the reporter. That becomes a leading inquiry and a suggestion that is not

warranted by facts already established. He has no right to take this gentleman's comment in the newspaper and say, on what did you base it? He ought to ask him, what did the Governor say, and whether or not he had any basis for it is a different inquiry that we would have a right to go into on cross examination; but I suggest he has no right to say, "I see you say here that the Governor does not care for certain things. What do you base that on?" And the statement follows—that is beside the question, however,—that those close to the Governor say so and so.

General Crane: I didn't ask for that.

Mr. Hanger: I know that. The question is, what did the Governor say about it?

The Chair: The Chair is of the opinion that counsel should not be permitted to take a statement in the nature of a conclusion made by the witness and ask him on what he bases it. Counsel probably has a right to do as was done, to submit it to the witness and refresh his memory, and then independently of that ask a question not leading to develop the facts counsel desires to develop.

General Crane: All right. I think I can conform to that rule.

Q. Now, Mr. Evans, what, if anything, did you hear the Governor say about closing the University or not keeping it open in the event the faculty as then existing should be retained?

A. Well, General, in getting the interview I submitted these questions categorically and asked the Governor to answer them.

The Chair: A little louder, Mr. Evans.

A. Then the Governor—a public official talks to a newspaperman sometimes in confidence. If I am relieved from all of that, all right.

Q. Well, now, you know you are released when you get on the witness stand, as I think the Presiding Officer will tell you.

The Chair: Yes, 'sir. Any statements, Mr. Evans, made to you by the Governor you are not privileged to withhold when a proper question is propounded to bring them out.

Mr. Hanger: Yes, there is no objection on the part of the Governor to telling anything he said!

A. I will state—

Senator Bee: Mr. President, we can't hear him.

A. After I got through asking these questions, he said, "If that crowd out there keeps on like they are, I am frank to say I don't care whether the University opens or not."

Q. Wait a minute. These gentlemen can't hear you very well—it is not your fault.

A. Certainly it is not.

Q. "If that crowd out there keeps on like they are, I don't care whether the University opens or not"—is that correct?

A. Yes. He also said he was ready to meet them half way. This was in the first interview.

Q. Yes?

A. He went farther than that in that Saturday night interview.

Q. He went farther than that in that Saturday night interview. What did he say?

A. He said he wanted them to meet him half way so that it could open, and he exhibited it in the Saturday night interview when he was up there on the Board of Regents, but in the interview after dinner, after he got through answering these questions which I read to him, he said, "Speaking to you confidentially"—and I state that on the authority of Mr. Hanger, he says he doesn't care—

The Chair: Louder, Mr. Evans.

Q. Speaking to you confidentially, what?

A. He said, if that crowd keeps on, he didn't care.

Q. If that crowd keeps on—he was referring to whom?

A. Well, of course, I presumed who it was—the University crowd.

Q. The University crowd, including the President and the faculty?

Mr. Hanger: That is leading. He has not said that.

The Chair: Don't lead him.

Q. Well, what did he say?

A. Well, he just said "That crowd."

Q. That's all that he said?

A. Yes. Understand, General, that in quoting the Governor on this I did so on Senator Hanger's statement.

Q. Well, you see, when you are on the witness stand newspaper men are not privileged.

A. I don't think we are privileged anywhere else.

General Crane: I think you have many privileges. That's all.

Re-cross Examination By Mr. Hanger.

Q. He said that night he expected the University to open?

A. Yes, sir.

Q. He said he expected the University to go on?

A. Yes, sir.

Q. His attitude was that certain practices at the University that he thought were improper, ought to stop?

A. Yes, sir.

Q. That was his attitude, and he wanted them to meet him half way in eliminating improper practices?

A. Yes.

Q. And he said he expected the University to open and that when they didn't have enough money out of the available fund, then he was going to authorize the issuance of deficiency warrants so it might run—that was his statement?

A. Yes, sir.

Mr. Hanger: That's all.

Re-direct Examination By General Crane.

Q. Well, now, Mr. Evans, didn't you know and didn't he know—

Mr. Hanger (Interrupting): I object to leading the witness.

The Chair: Don't lead him.

Q. That all his first complaints had been met?

A. Well, I could not say that I knew it.

Q. What practices that he complained of were then and there at the University?

A. Well, he was talking in general terms.

Q. Well, he talked about the crowd and their practices. Now, this was in June, 1917?

A. Well, now, I can give you a resume of those he had made in his speeches.

Q. Well, I am talking about the practices that had not been corrected.

A. I can't say that I knew of any.

Q. Doctor Battle had been elected president of the University of Cincinnati and had taken his position there?

A. Yes, sir.

Q. The little incident of the mileage tickets, that had been corrected?

A. Well, it had been reported so.

Q. The University had requested both Houses of the Legislature to

make an investigation of the complaints?

A. Yes, sir.

Mr. Hanger: We respectfully again urge the objection that General Crane ought not to continue the practice of leading the witness; he does not need to be led; he is not an unwilling witness. It is not an important matter, but it just goes to the conduct of the case.

General Crane: Well, I have finished now.

Mr. Hanger: I hate—one minute—I hate to continually object, and especially when he knows better so well, but I do, and renew it with the utmost respect to counsel and the Court.

General Crane: I am very grateful to counsel, but I will abstain from that now. The witness may stand aside.

The Chair: I will read this question to you by Senator Caldwell: "Did he indicate to you the amount of deficiency warrants he would approve, and if so, how much?"

A. I can't—I am not certain about that. There were a lot of figures in there and I took notes very carefully on it and verified them in talking to the Governor. I talked to him in the office where they met, up in the Busch Building. You see, it originally was an interview for the afternoon paper, and I verified all the figures, and there were a good many figures.

Mr. Hanger: You can't say whether he did indicate any amount?

A. No, sir, I could not, but he quoted several different figures.

Re-direct Examination
By General Crane.

Q. What was the date of that interview that you said came out, a similar interview to that, that we have not read to you or shown you here?

A. Well, that was the last interview, when he was up there with the Board of Regents.

Q. About what date?—so we can get it out of the Library.

A. Well, when he was up there in the middle of July, or something like that.

Q. About the middle of July?

A. Let's see—

Q. (Interrupting). Was that

after the House had been called, or before?

A. That was just a little before, because it was about three days or four days after they had all signed that A. & M. statement.

General Crane: All right, we can find that.

Re-cross Examination
By Mr. Hanger.

Q. Responding to the question by Senator Caldwell, he did indicate the issuance of enough deficiency warrants or certificates to run the University?

A. Yes, sir, that was the idea.

Senator Caldwell: Mr. President, I would like to have the witness answer my question.

The Chair: Yes, sir. Answer the question.

A. I thought I did.

Mr. Hanger: He said he didn't know.

General Crane: Well, let him answer.

The Chair: I will read it again: "Did he indicate to you the amount of deficiency warrants he would approve, and if so, how much?"

A. I might say, he indicated it, inasmuch as he intended that these deficiency warrants would run the University.

Senator Caldwell: Did he indicate any amount?

A. Well, I said I could not remember.

The Chair: Any further questions?

Re-direct Examination
By General Crane.

Q. He said he would issue them at the end of the year?—Isn't that what you testified a while ago?

A. Yes, when the fund they had now available was consumed that he would then supplement it.

Q. Well, didn't he say that would cover it?

A. Yes, that was his calculation.

General Crane: That's all.

Re-cross Examination
By Mr. Hanger.

Q. To refresh your recollection, he said to the end of the calendar year, the first of the incoming year, '18—that is, from September to January?

A. Well, that would be the school year of 1917 and '18.

Q. No, didn't he say this, that the available funds, approximating three hundred thousand dollars, he thought would run the school from September to January—that is, the end of the calendar year, not the fiscal year; that is what he said, wasn't it, and he would issue deficiency warrants for the remainder of the school year?

A. Well, I don't remember.

Q. Well, you don't remember? All right.

A. The interview can be obtained. It is one of the four Sunday issues of July.

Q. I think it was on the eighth day?

A. It was one of the Sunday issues.

The Chair: Here is a question: "Did you understand from him that he could approve deficiency warrants?"—

Senator Caldwell (Interrupting): "Would approve."

The Chair: "That he would approve deficiency warrants for the support and maintenance of the University of Texas in any sum that would be necessary, even though it might amount to a million dollars or more?"

A. Well, do I understand—

The Chair: Well, I will read the question again if you don't understand it: "Did you understand from him that he would approve deficiency warrants for the support and maintenance of the University of Texas in any sum that would be necessary even though it might amount to a million dollars or more?"

A. Well, that million dollar part was not discussed. The gist of the interview was this: that the Board of Regents was going to run the University from now on; that whatever the University—now, this is as I understood and interpreted what the Governor said: that as long as the Board of Regents—

General Crane (Interrupting): Repeat his language as nearly as you can.

A. Well, as long as the Board of Regents was running the University he would act on the advice of the Board of Regents, and if the Board of Regents wanted deficiency warrants issued and approved that they would be approved—it would be

upon the recommendation of the Board of Regents.

The Chair: Any further questions to this witness?

Senator Hudspeth: Just a minute, Mr. President, I am writing a question.

Mr. Hanger: May I ask a question while the Senator is finishing that?

The Chair: Yes, sir.

Re-cross Examination
By Senator Hanger.

Q. What you meant to say, as I understood you, was that he would authorize the issuance of deficiency warrants in whatever amount was necessary in the judgment of the Board of Regents to run the University?

General Crane: Well, now, I object to that.

Senator Hudspeth: That was my question, and I certainly insist that that question be asked. I want to get all the light I can.

General Crane: The witness has not attributed that language to the Governor, but if you ask it I will withdraw the objection.

Senator Hudspeth: Yes, sir, I want that—that the Governor would issue any deficiency warrants the Board of Regents would recommend?

A. Yes, sir.

Mr. Hanger: That's what he said?

Senator Caldwell: I don't want to interrupt the examination, but he said that might be what he said. I want to know what he said.

Mr. Hanger: I think I can ask a question that will cover it.

Q. Mr. Evans, his statement in substance was that the University was going to run?

A. Yes, sir.

Q. That he would authorize the issuance of sufficient deficiency warrants to run the University, he said that, and such as was necessary in the judgment of the Board of Regents to run it?

A. Yes, sir, in substance.

Mr. Hanger: That's all.

Redirect Examination
By General Crane.

Q. Well, now, you didn't testify to that at first. You said he said they would have three or four hundred thousand dollars and that at the end of the year he would issue

deficiency warrants, but he did not say for whatever amount would be necessary in the judgment of the Board of Regents?

A. No, I said in substance.

Q. Well, now, I want to know what he said. He didn't say anything about being sufficient to run the University?

A. Well, now, I took that interview into view—

Q. Ah! I don't want that, but what he said.

A. I am unable to swear.

Q. You are unable to swear that he said he would issue deficiency warrants in order to operate the University the way any Board of Regents wanted?

A. Well, not the latter part of the question.

Q. The language you attribute to him is that he said he would use the three or four hundred thousand dollars and then towards the latter part of the year he would issue deficiency certificates for the balance? Now, that's all he said, wasn't it?

A. That is not all he said.

Q. But he said if this crowd kept worrying him, going on, he didn't care whether it ran at all or not?

A. That was not said in that interview; that was in another interview prior to that.

Q. How long before?

A. I should judge a month before.

General Crane: All right.

The Chair: Stand aside.

Senator Caldwell: Mr. President, I would like to write one more question.

The Chair: This question by Senator Caldwell: "Did the Governor ever say anything to you to indicate how permanent improvements needed at the University could be provided for under the plan intimated by him—outlined by him?"

A. No, he did not.

The Chair: Any further question, gentlemen?

Mr. Hanger: That's all.

The Chair: Stand aside, Mr. Evans.

General Crane: Now, Mr. President, we offer in another connection the date of the filing of the veto message—no, beg pardon—take that out, please. We offer the date that the bill raising the salaries of the judiciary was filed in the Governor's

office. It is received in the Executive office the 15th day of March, A. D. 1917 at five o'clock p. m.

General Crane: Is Fred Connerly here? Mr. Sergeant-at-Arms, will you call him, please?

The Proponents called.

FRED T. CONNERLY,

to whom the following oath was administered by the Chair:

"You do solemnly swear that the evidence you shall give upon this hearing by the Senate of Texas, of impeachment charges against James E. Ferguson, shall be the truth, the whole truth, and nothing but the truth, so help you God?"

And the witness, thereupon, testified in answer to questions propounded, as follows, to wit:

Direct Examination

By General Crane.

Q. Mr. Connerly, you are Clerk of the Supreme Court of the State, and have been for several years?

A. Yes, sir.

Q. Do you remember the case of *Middleton vs. Terrell*—or *Terrell vs. Middleton*, as it reached the Supreme Court?

A. Yes, sir.

Q. When was it filed in the Supreme Court?

A. It was filed on August 2, 1916.

Senator Bee: A little louder.

Q. When was it disposed of by opinion—the first opinion of the Supreme Court?

A. Well, there was no—there was no written opinion at first.

Q. I know, but there is an entry on the—

A. Writ of error refused.

Q. Writ of error refused? When was it refused?

A. On January 10, 1917.

Q. When, if at all, was there a motion for rehearing made?

A. (Referring to papers). Yes, sir, the motion for rehearing was filed on January 25, 1917.

Q. When was it passed upon?

A. It was overruled on March 28, 1917.

Q. March 28, 1917? That was what is known as "the chicken salad case?"

A. Yes, sir.

Q. I will ask you to state

whether or not that letter came from Governor Ferguson by due course of mail to the Supreme Court (paper to witness)?

A. Well, that is my information, that the letter, I think, went direct to the Judges, did not come through my office.

Q. Did not go through your office?

A. I discovered it.

Q. Where did you first discover it?

A. I discovered it among the papers after the overruling of the motion for rehearing—in handling the papers I saw it was among the papers.

Q. Yes?

General Crane: We offer that letter as a part of the case.

Mr. Hanger: Read it.

(General Crane thereupon read the letter as follows, to-wit):

"Governor's Office,
"Austin, Texas."

"March, 22, 1917.

"To the Supreme Court of Texas,

"Capitol.

"Gentlemen:

"Referring to the case of Middleton vs. Terrell, now before your Court, and generally known as 'the chicken salad case,' I am taking the liberty to call to your attention Section 48 of Article 3, which appears to give the Legislature the right to levy taxes and raise revenue for the payment of all officers, agents and employes of the State Government, and all incidental expenses connected therewith.

"In all probability you have considered this provision of the Constitution, but as the matter is of such public importance, I am taking the liberty to again call your attention to the provision in order that there may be no possibility of the provision being overlooked.

"Yours truly,

(Signed) "Jas. E. Ferguson,

Q. Now, the briefs filed in the Court of Civil Appeals, I presume were filed, and the application for rehearing or for writ of error—

A. Well, they were not actually filed, you understand, General, that where a writ of error is refused, all the papers are returned to the Court of Civil Appeals, such as—

Q. (Interrupting). I know, but when the application comes up?

A. Yes, sir.

Q. They are accompanied by the papers in the Court of Civil Appeals, aren't they?

A. Yes, sir, all papers filed in the Court of Civil Appeals are supposed to accompany it.

Q. Well, examine this brief I am showing you now, it is one filed by Pat M. Neff, in the court of Civil Appeals?

A. It is filed by Pat M. Neff, yes, sir.

Q. Yes, Pat M. Neff, the attorney for appellant?

A. Yes, sir.

General Crane: We offer the paragraph in Section 34 (reading): "And further"—reads as follows, "power is given in Section 48, Article 3, Harris' Annotated Constitution of Texas, page 295, the Legislature, as follows," quoting that section.

Q. Have you the application for writ of error there?

A. Yes, sir (referring to papers).

Q. The application for writ of error, I call attention to the statement on page 11, authorities cited, Section 3, Article 8 of the Constitution of Texas. This petition was presented by Pat M. Neff, wasn't it?

A. Signed by him, yes.

Q. Signed by him, yes? Now, on the motion for rehearing, motion for rehearing, we call attention to the fact that on page 13, the same section, Section 48, Article 3, is again cited. That is all.

Cross Examination

By Mr. Hanger.

Q. Oh, Mr. Connerly, do you know whether or not the Governor had read these briefs of counsel?

A. No, sir, I do not.

Q. Do you know whether or not the Supreme Court read them?

A. Well, they always do—they read them in every case.

Q. Always read them?

A. Yes, sir.

Q. All the briefs filed?

A. Well, that is my understanding, yes, sir.

Q. Oh, yes, you understand that they do?

A. Yes, sir. I don't read them for them.

Senator Bee: May I ask counsel to ask him whether they always follow the briefs of counsel?

A. Not always, no.

Q. You do not mean to say that the Supreme Court read all the briefs, do you, that are filed there?

A. They undertake to, I think.

Q. Oh, I see. How often do you file reports from your office?

A. Every three months.

Q. Every three months?

A. Yes, sir.

Q. That is all.

General Crane: Wait a minute.

Re-direct Examination
By General Crane.

Q. What is the date that motion was finally overruled—motion for rehearing?

A. The motion for rehearing was overruled March 25, 1917.

Q. March 25, 1917?

A. Yes, sir.

General Crane: Now, we offer in connection with this the proclamation of the Governor, vetoing the salaries of the Judges, of April 5th.

"This is to advise that I have this, 5th day of April, A. D. 1917, officially disapproved and vetoed House Bill No. 21, passed by the Thirty-fifth Legislature, the same being an Act to raise the salaries of District Judges from \$3,000.00 to \$3,600.00; of Judges of the Courts of Civil Appeals from \$4,000.00 to \$4,500.00; and the Judges of the Supreme Court and Court of Criminal Appeals from \$5,000.00 to \$6,000.00, my objections being, first, this is wholly unnecessary and is legislation not generally demanded or requested by anybody except by the Judges drawing the salaries. I am quite well aware of the criticism which I shall receive for vetoing this bill, but I think I know what I am doing. Judges should not be paid as little as the poorest lawyer in the community makes, nor should be paid what the best lawyer in the community makes; but they should be paid an amount somewhat larger than what the average lawyer in the country makes. In my opinion this law would not change the personnel of three District Judges in Texas. \$3,000.00 will get just as good a District Judge as \$3,600.00 will get, and I am reliably informed that every Judge on the Court of Civil Appeals and on the Supreme Court is a candidate for re-election. During my incumbency of office there have been many vacancies, probably twenty-five, on the various district benches of the State; and invariably I was besieged and beset by as good, if not the best,

talent in each district imploring me to give him the appointment, which shows that \$3,000.00 is sufficient. When a District Judge gets \$3,000.00 with no books to buy, with no office rent and no stenographers to employ, it is equal to a law practice that pays \$5,000.00 a year,—far more than the average lawyer makes or ever hopes to make. The higher courts of this State have given their approval to the proposition that the Governor of this State must be restricted to a salary of \$4,000.00 and no more; and it does occur to me that if the dignity of the Governor's office is to be thus restricted by the decree of the higher courts to \$4,000.00 a year, they, themselves, ought to be satisfied with their present salaries, which are as much and more than the Governor's salary.

"It would cost the taxpayers of the State some \$75,000.00 a year if this law were enacted; which amount, in my opinion, would not increase the efficiency of the personnel of the Judges, who are now paid as well, if not better, than the other branches of the public service. The bill is, therefore, disapproved and vetoed.

(Signed) "Jas. E. Ferguson,
"Governor of Texas."

The Chair: Any further questions for this witness?

Mr. Hanger: No.

Q. (General Crane, resuming): Under what provision do you make that quarterly report?

A. It is—well, it is contained in the appropriation bill each year, generally, now, it is—

Q. It is contained in the appropriation bill each year?

A. Yes, sir, it is prescribed in there that I make a report the 1st of January, April, June and October.

Q. That applies to the Clerk of the Supreme Court?

A. Yes, sir.

Q. All right, Mr. Connerly.

Re-cross Examination
By Mr. Hanger.

Q. That has always been the custom since you have been in office?

A. Yes, sir.

Q. I didn't mean the appropriation, but the statements have been made ever since you have been in the office?

A. Yes, sir.

Q. How long has that been, if I may ask you?

A. Since I have been in the office, or been Clerk?

Q. In the office?

A. Nearly thirty years.

General Crane: One moment, Mr. Connerly.

Re-direct Examination
By General Crane.

Q. Just for the convenience of the Court, please give the date of that application for that writ of error?

A. You mean the date filed in the Supreme Court?

Q. Yes?

A. It was filed in the Supreme Court August 2, 1916.

Q. All right. When was it refused?

A. Refused on January 10, 1917.

Q. When was the motion for rehearing made?

A. On January 25, 1917.

Q. January 25, 1917? When—and now, then, this bill increasing the salaries of the judges was received by the Governor on the 15th of March, 1917. How long after that was that—was this after the overruling of that motion?

A. Well, the motion for rehearing was overruled on March 28th, 1917.

Q. March 28th? When was the letter written?

A. March 22nd, I think, I don't remember.

Q.—March 22nd, yes, that is right. That is all—that will do.

Mr. Hanger: That will do.

The Chair: Stand aside, Mr. Connerly.

(Witness excused.)

The Chair: Have the next witness come.

Senator Bee: Mr. President, unless General Crane has a witness who might be available, I think we might rise and recess—unless the General has a witness here.

General Crane: We have one other witness we would like to close up today.

Senator Bee: All right, then—all right.

General Crane: We are abiding the pleasure of the Court, though.

Senator Bee: All right, I thought you might not have one that was just available.

General Crane: We now offer, Mr. President; the certified copy of the transcript from the Court of Civil Appeals of the Beaumont Dis-

trict, in the case of Dayton Lumber Company vs. Governor Ferguson and others, or somebody against Dayton Lumber Company and Governor Ferguson and others, at any event—the case was first decided by the Court of Civil Appeals on or about January 9th; we will have the Southwestern here in a moment.

Appellants' motion for rehearing was filed January 20, 1916.

Appellants' motion for rehearing submitted on the 9th of February, 1916.

Motion for rehearing overruled on the 24th of February, 1916, with written opinion.

Another motion—appellees' motion for rehearing was filed March 10, 1916.

Submitted on March 22, 1916.

Overruled April 20, 1916.

Motion of Appellees certifying certain questions, filed March 10, 1916.

Submitted March 22, 1916.

Overruled April 20, 1916.

Motion to retax costs filed March 29, 1916; submitted April 5, 1916; and

Overruled April 20, 1916.

Motion to reform judgment as to land adjudged to appellees, filed March 29, 1916;

Motion to reform judgment submitted the 5th of April, 1916.

Motion to reform judgment so as to fix boundaries of that portion of the Shattuck survey granted, and metes and boundaries fixed on the 20th of April, 1916;

Appellees' new motion for rehearing was filed on May 5, 1916;

Rehearing was submitted on the 18th of May, 1916;

And granted in part and overruled in part, they say, on the 19th day of October, 1916, which is probably in error—only a month; the Southwestern shows it was overruled in November, and it has October—but that is immaterial. As reported in 188 Southwestern, beginning on page 958, it shows that the case was decided January 7, 1916, motion for rehearing February 25, 1916, motion to reform judgment, April 20, 1916, and motion on rehearing October 19, 1916.

Mr. Hanger: It is all right, just read it from the record. It is agreed that this may be read, it is a correct statement of the conditions.

The Chair: All right.

General Crane: Referring to the case from which the documents were read, to which Governor Ferguson was a party, these are the facts, briefly stated: The case was tried in the district court, Governor Ferguson being one of the defendants. The defendants won, judgment being rendered in their favor. It was then appealed to the Court of Civil Appeals at Beaumont, of which Judge Conley, Judge Middlebrook, and Judge Brooks were judges, and was by that Court reformed or modified and affirmed, the modification stating, in effect, that the appellants, who had lost in the court below, recovering from the appellee the part of the land that had been awarded in the court below. That is all.

Mr. Harris: Page 209 is the letter.

Mr. Hanger: What letter?

Mr. Harris: The letter to the judges.

Mr. Hanger: Oh, yes, I thought you had read it, that is all right.

General Crane: No.

Mr. Hanger: That is all right.

General Crane: Pending that case, the Governor wrote to Judge A. G. Brooks, of the Court of Civil Appeals; it was while the motions were pending (reading):

"April 27, 1916."

"Judge A. G. Brooks,

"Beaumont, Texas.

"Dear Judge:

"Your favor of April 13th has been unanswered on account of absence from home.

"I note that you want me to write you a letter containing the following:

"Judge A. G. Brooks, Beaumont, Texas.

"As my appointee, I am pleased to know that you have given satisfaction to the bench, bar and people of your district.

(Signed) "Jas. E. Ferguson."

"It is with very sincere regret that I advise that I cannot conscientiously write you in the manner requested. A statement of that kind ought not to be given by me unless I honestly entertained that opinion.

"I appointed you and the other members of the Court upon the belief that you would hear the merits of every lawsuit and upon the recom-

mendation of your friends that each and every member of the court possessed the legal qualifications commensurate with the dignity of the position to which you were appointed. This appointment was made in the face of strong protests claiming neither member of the court was a lawyer of any known ability.

"My attention has been called to the decision of your court rendered in the case of Maddox vs. Dayton Lumber Company, which had been previously decided against the defendants in the lower court. If this opinion is permitted to stand, then there is no title in Texas to any land located in a survey that contains an excess but what can be taken away from the people who own it, and they are subject at any time to have their land filed on by unscrupulous land surveyors, in utter defiance of the laws of Texas and the Supreme Court decisions, which have held that the acts of such surveyors are utterly void and all proceedings thereunder convey no title. I call your attention that your court, although this proposition has been raised repeatedly in the different hearings of this case, has failed to meet this question raised in the record. The humblest citizen in the land is entitled to have the contentions of his case passed on, whether favorably or unfavorably. The decision in this court permits, in utter defiance of law, the survey of a public surveyor admitting that he had a proprietary interest in the land surveyed as a vacancy to take precedence over every surveyor that had surveyed this land for seventy years, and surveyed at a time when the marks were still on the ground and could be found, and in a position to know what they were doing far better than any unlawful surveyor who could locate it at the time that this land was located under an agreement to get part of the land which he might locate.

"I call your attention that all these facts appear in the record, and the rule is well established that the burden of proof was upon the plaintiffs to establish their title, and when there is a void chain appearing in the title, certainly no lawyer of any known ability could contend for a minute that the plaintiffs would be entitled to recover.

"Not being satisfied with disre-

garding the law in this respect, the court has seen fit to go in and find facts and locate the vacant surveys and thus invade the province of the jury in such a manner as to do violence of the rights of citizens and the laws of this country!

"Not being satisfied with this, for the first time in the history of Texas jurisprudence the court lays down the astounding proposition that in the location of this land that the calls of the survey cannot be reversed in order to properly locate the land.

"Taking this decision as sample of the court's work, I cannot, in justice to myself, consider that it would be proper for me to write you in the manner requested. As you know, I entertained for each member of the court the highest regard, but do not think I can go further than I have done to promote the personal interest of the members of the court.

"I am sending a copy of this letter to each member of the Court, in order that all parties may be advised of the true facts.

"Yours truly,
(Signed.) "Jas. E. Ferguson,
"Governor."

"c. c. to Judge Jno. M. Conley.
"c. c. to Judge V. E. Middlebrook.
"d."

General Crane: That is all, Mr. President, for this evening.

The Chair: Anything further?

General Crane: Sir? We have no witness now to offer to take up the remaining few minutes.

Senator Bee: Mr. President, I move that the Court rise and adjourn until 10:00 o'clock tomorrow morning.

The Chair: The Senator from Bexar moves that the Court rise and recess until 10:00 o'clock tomorrow morning. Those in favor of the motion will say "Aye," those opposed, "No." The motion prevails, and the Court will recess until 10:00 o'clock tomorrow morning.

(The Court thereupon recessed until 10:00 o'clock the following morning).

In the Senate.

President Pro Tem. Dean in the chair.

Messages from the Governor.

Mr. S. Raymond Brooks here appeared at the bar of the Senate with a communication, which was laid before the Senate by the Chair, being several messages as follows:

Governor's Office,
Austin, Texas, Sept. 10, 1917.

To the Thirty-fifth Legislature in Called Session:

I beg to submit for the consideration of your honorable body the following subject:

Enactment of a law amending the Act creating the Rock Island Independent School District, as passed by the First Called Session of the Thirty-fifth Legislature, and describing metes and bounds for said school district, the same being in Colorado County, Texas.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office.
Austin, Texas, Sept. 10, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your honorable body the following subject:

Enactment of a law to amend Chapter 27 of the General Laws passed by the First Called Session of the Thirty-fifth Legislature of the State of Texas, 1917, entitled "An Act to amend Chapter 189 of the General Laws passed by the Thirty-fifth Legislature of the State of Texas," providing and fixing the salary of official shorthand reporters for each judicial district.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office.
Austin, Texas, Sept. 10, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your body the following subject:

Enactment of a law to amend Article 7355, Chapter 1, Title 126 of the Revised Civil Statutes of Texas, 1911, by adding thereto a section so as to exempt hobby horses, theatres, circuses, menageries, acrobatic performances, sleight of hand perform-

ances, waxworks and other forms of entertainment from an occupation tax when such forms of amusement or entertainment are operated in connection with and under the auspices and for the benefit of county or district agricultural fairs.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office.

Austin, Texas, Sept. 10, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your honorable body, the following subject:

Enactment of a law creating and establishing the Anahuac Independent School District in Chambers County, Texas.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office.

Austin, Texas, Sept. 10, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your honorable body the following subject:

Enactment of a law to amend Sections 1, 2 and 6, Chapter 4 of the Special Laws of the Regular Session of the Thirty-fifth Legislature, being an Act to create a more efficient road law for Llano County, Texas.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office.

Austin, Texas, Sept. 10, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your honorable body the following subject:

Enactment of a law to amend Sections Nos. 2 and 14 of the Special Road Laws of Coleman County, Texas, approved April 15, 1905, being House Bill No. 542, as amended by an Act, being House Bill No. 688, of the Special Laws of Texas, and as amended by an Act, being House Bill No. 52, of the Special Laws of Texas, approved June 4, 1915, which House Bill No. 542 is entitled, "An Act to create a more efficient road system for Coleman County, Texas," so as

to prescribe the power and authority of commissioners court of said county.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

(Senator Lattimore in the Chair.)

Bills and Resolutions.

(By unanimous consent.)

By Senator Clark:

S. B. No. 14, A bill to be entitled "An Act creating the Rock Island Independent School District as passed by the First Called Session of the Thirty-fifth Legislature."

Read first time and referred to Committee on Educational Affairs.

Simple Resolution No. 15.

(By unanimous consent.)

Whereas, The drouth stricken conditions that now prevail in certain sections of Texas are of such serious nature to demand the necessity of government aid; and

Whereas, It seems improbable that the State government can meet the demand by legislative action, both on account of an insufficiency of funds and constitutional authority to enact the proper legislation; and

Whereas, The Federal food bill under which Hon. Herbert C. Hoover operates authorizes that Commission to administer such aid, and assistance as is necessary to care for the drouth stricken sections and enable them to produce crops for 1918; therefore, be it

Resolved, By the Senate of Texas, That the President of the Senate appoint a Committee of three to investigate the Food Control Bill and communicate with Mr. Hoover and ascertain the possibility and the probability of securing relief from that source; be it further

Resolved, That the said committee solicit the aid of the Texas members in Congress, the United States Senators from Texas and Mr. J. S. Cullinan in negotiating with Mr. Hoover, and devising means by which such aid can be gotten and administered; and, be it further

Resolved, That we invite the Texas Council of Defence to co-operate with us in this movement and that we most

willingly extend to them our hearty co-operation in all that it is possible for us to do toward securing the necessary relief.

WOODWARD.

The resolution was read and on motion of Senator Hudspeth, the same was deferred until tomorrow.

Senate Bill No. 8.

The Chair laid before the Senate as regular order on second reading:

S. B. No. 8, A bill to be entitled "An Act to provide for the creation of home guards under the direction of the sheriff of the county; providing for the regulation of such home guard and granting the right to counties, cities and towns to appropriate money to provide arms and ammunition for such home guard, and declaring an emergency."

The committee report that the bill be not printed was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Johnston of Harris, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 8 put on its third reading and final passage by the following vote:

Yeas—22.

Bailey.	Hudspeth.
Alderdice.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Page.
Clark.	Robbins.
Dayton.	Strickland.
Dean.	Suiter.
Decherd.	Westbrook.
Henderson.	Woodward.

Present—Not Voting.

Harley.

Absent.

Collins.	Smith.
Parr.	

Absent—Excused.

Floyd.	Hopkins.
Gibson.	McCollum.
Hall.	

The bill was laid before the Senate, read third time and Senator Harley offered the following amendment:

Amend the bill by striking out the word "Sheriff" wherever it appears and insert in lieu thereof the words "County Judge."

Senator Johnston of Harris moved to table the amendment, and this motion prevailed.

Senator Bee offered the following amendment:

Strike out that portion of the bill in Section 2 beginning with the word "And" and ending with the word "County."

The amendment was read, and adopted by the following vote:

Yeas—15.

Alderdice.	Harley.
Bee.	Johnson of Hall.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Clark.	Page.
Collins.	Suiter.
Dean.	Westbrook.
Decherd.	

Nays—6.

Caldwell.	Hudspeth.
Dayton.	Johnston of Harris.
Henderson.	Robbins.

Present—Not Voting.

Bailey.

Absent.

Parr.	Smith.
Strickland.	Woodward.

Absent—Excused.

Floyd.	Gibson.
Hall.	Hopkins.
McCollum.	

Senator Bailey offered the following amendment which was read and adopted unanimously:

Amend the bill by striking out in line 8 of Section 2 the word "only" and inserting after the word "pistols" the words "and such other weapons as may be necessary."

Action recurred upon the final passage of the bill and the same was passed by the following vote:

Yeas—22.

Alderdice.	Collins.
Bailey.	Dayton.
Bee.	Dean.
Buchanan of Bell.	Decherd.
Buchanan of Scurry.	Harley.
Caldwell.	Henderson.
Clark.	Hudspeth.

Johnson of Hall. Page.
 Johnston of Harris. Robbins.
 Lattimore. Suiter.
 McNealus. Westbrook.

Absent.

Parr. Strickland.
 Smith. Woodward.

Absent—Excused.

Floyd. Hopkins.
 Gibson. McCollum.
 Hall.

Senate Bill No. 14.

(By unanimous consent.)

On motion of Senator Clark, the constitutional rule requiring bills to be read on three several days was suspended and Senate bill No 14 put on its second reading by the following vote:

Yeas—21.

Alderdice. Harley.
 Bailey. Henderson.
 Bee. Hudspeth.
 Buchanan of Bell. Johnson of Hall.
 Buchanan of Scurry. Johnston of Harris.
 Caldwell. Lattimore.
 Clark. McNealus.
 Collins. Page.
 Dayton. Robbins.
 Dean. Westbrook.
 Decherd.

Absent.

Parr. Suiter.
 Smith. Woodward.
 Strickland.

Absent—Excused.

Floyd. Hopkins.
 Gibson. McCollum.
 Hall.

The Chair laid before the Senate on second reading:

S. B. No. 14, A bill to be entitled "An Act to amend the Act creating the Rock Island Independent School District as passed by the First Called Session of the Thirty-fifth Legislature."

The Senate rule requiring committee reports to lie over one day was suspended.

The committee report that the bill be not printed was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Clark, the

constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 14 put on its third reading and final passage by the following vote:

Yeas—21.

Alderdice. Harley.
 Bailey. Henderson.
 Bee. Hudspeth.
 Buchanan of Bell. Johnson of Hall.
 Buchanan of Scurry. Johnston of Harris.
 Caldwell. Lattimore.
 Clark. McNealus.
 Collins. Page.
 Dayton. Robbins.
 Dean. Westbrook.
 Decherd.

Absent.

Smith. Suiter.
 Strickland. Woodward.

Absent—Excused.

Floyd. Hopkins.
 Gibson. McCollum.
 Hall. Parr.

The bill was laid before the Senate, read third time and, on motion of Senator Clark, was passed by the following vote:

Yeas—21.

Alderdice. Harley.
 Bailey. Henderson.
 Bee. Hudspeth.
 Buchanan of Bell. Johnson of Hall.
 Buchanan of Scurry. Johnston of Harris.
 Caldwell. Lattimore.
 Clark. McNealus.
 Collins. Page.
 Dayton. Robbins.
 Dean. Westbrook.
 Decherd.

Absent.

Parr. Suiter.
 Smith. Woodward.
 Strickland.

Absent—Excused.

Floyd. Hopkins.
 Gibson. McCollum.
 Hall.

Adjournment.

At 5:45 o'clock p. m. Senator Johnson of Hall moved that the Senate adjourn until 9:30 o'clock tomorrow morning.

The motion prevailed.

APPENDIX.

Petitions and Memorials.

Dallas, Texas, Sept. 10, 1917.

Senator J. C. McNealus, Austin, Texas.

Dallas Automobile Club, representing thousands of owners in Dallas County, urges you to use your very best efforts to secure the passage of the Tinner Bill (House Bill No. 9) through the Senate. The prohibition of the sale of gasoline and oils on Sunday could blacken the eye of Texas with the thousands of tourists who yearly come here for business and recreation. We trust this will receive your earnest attention.

DALLAS AUTO CLUB.

Committee Reports.

Committee Room,

Austin, Texas, Sept. 10, 1917.

Hon. W. L. Dean, President of the Senate,

Sir: We, your Committee on Education, to whom was referred

S. B. No. 14, A bill to be entitled "An Act to amend the act creating the Rock Island Independent School District as passed by the First Called Session of the Thirty-fifth Legislature."

Have had same under consideration and beg to report it back to the Senate with the recommendation that it do pass and be not printed.

BEE, Chairman.

(Floor Report.)

Senate Chamber.

Austin, Texas, Sept. 10, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Agricultural Affairs, to whom was referred

S. B. No. 13, A bill to be entitled "An Act to establish and maintain at the Ferguson Farm in Madison County, or the Shaw State Farm in Bowie County, or State Farm in Brazoria County, Texas, a school for the education and training of delinquent and incorrigible negro boys, to be named and known as the State Training School for Negro Boys, etc."

Have had the same under consid-

eration, and beg leave to report same back to the Senate with the recommendation that it do pass and be not printed.

Woodward, Chairman; Alderdice, Buchanan of Bell, Buchanan of Scurry, Dayton, Decherd.

(Floor Report.)

Senate Chamber.

Austin, Texas, Sept. 7, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred

S. B. No. 7, A bill to be entitled "An Act to prevent the introduction into the State of Texas, of the destructive cotton pest, *Pectinophera gossypiella* Saund, hereinafter referred to as the pink boll worm, and to control and eradicate such insect pest in the event its presence in this State is discovered; creating a zone along the southern and southwestern boundary of the State from which cotton and cotton products may not be transported; providing for the inspection of fields of cotton and for the inspection and general control of cotton produced in an inspection zone; and to provide for the quarantine and control of any territory within the State within which the pink boll worm may be found; providing for an appropriation and creating an emergency.

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do pass.

Page, Chairman; Hudspeth, Herderson, Lattimore, Westbrook, Caldwell, Suiter, Hall, Collins, Dayton.

Committee Room,

Austin, Texas, Sept. 10, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Labor, to whom was referred

S. B. No. 11, A bill to be entitled "An Act to regulate the business of emigrant agents; defining emigrant agents; providing for licensing any person, firm or private employment agency desiring to be licensed as an emigrant agent, and prescribing the method of obtaining such license, and the requirements thereof, and defining who may be licensed; prescribing certain duties relative to

the Act and its administration for the Commissioner of Labor statistics and the Attorney General, and conferring certain authority relative to the administration of this Act upon said Commissioner; fixing the fees which may be charged by parties licensed hereunder, and fixing the license fees to be paid by those licensed hereunder; creating and defining offenses for violations of this Act and prescribing the punishment therefor; providing that all fees collected hereunder shall be paid directly into the State Treasury; declaring that all appropriations made for the Department of the Commissioner of Labor Statistics may be used in the enforcement and administration of this Act, and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed, but printed in the Journal.

McNEALUS, Chairman.

By Hall.

S. B. No. 11.

A BILL

To be entitled

An Act to regulate the business of Emigrant Agents; defining emigrant agents; providing for licensing any person, firm or private employment agency desiring to be licensed as an emigrant agent, and prescribing the method of obtaining such license, and the requirements thereof, and defining who may be licensed; prescribing certain duties relative to the Act and its administration for the Commissioner of Labor Statistics and the Attorney General, and conferring certain authority relative to the administration of this Act upon said Commissioner; fixing the fees which may be charged by parties licensed hereunder, and fixing the license fees to be paid by those licensed hereunder; creating and defining offenses for violations of this Act, and prescribing the punishment therefor; providing that all fees collected hereunder shall be paid directly into the State Treasury; declaring that all appropriations made for the Department of the Commissioner of Labor Statistics may be used in the enforcement and administration of this Act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That no person, firm or private employment agency shall carry on the business of an emigrant agent in this State without first having obtained a license therefor from the Commissioner of Labor Statistics of the State of Texas.

Sec. 2. The term "Emigrant Agent" as contemplated in this Act shall be construed to mean any person engaged in hiring laborers or soliciting emigrants in this State to be employed beyond the limits of this State.

Sec. 3. Any person, firm or private employment agency desiring to be licensed hereunder as an emigrant agent shall make application to the Commissioner of Labor Statistics on forms to be prescribed by said Commissioner, in which he shall state his name, age, place where his business is to be conducted, his previous occupation for the past five years, and the names of the counties of the State in which he expects to engage in the business of hiring laborers or soliciting emigrants in this State to be employed beyond the limits of the State. Such application shall, also, be accompanied by affidavits of at least three credible men that the applicant is of good moral character. The Commissioner of Labor Statistics may require other and additional evidence of the moral character of the applicant, if necessary; and no license shall be granted to any person except one of good moral character. Such application shall be examined by the Commissioner of Labor Statistics and if he finds that the same in all respects complies with the law and that the applicant is entitled to a license under this Act, then he shall issue a license to the applicant for each county for which application is made, and shall deliver such license to the applicant upon the payment of a license fee of two hundred and fifty dollars for each and all of said counties and the execution of a good and sufficient bond in the penal sum of five hundred dollars for each county to be approved by said Commissioner of Labor Statistics and conditioned that the obligor will not violate any of the duties, terms, conditions and requirements of this Act. Said Commissioner is authorized to cause action to be brought on said bond by the Attorney General for any violation of any of its conditions; and any person aggrieved by any action or conduct of any such

licensed party may bring action for damages against such party on said bond and recover thereon and against the bondsmen in any court of competent jurisdiction without the necessity of making the State a party thereto. On a full hearing the Commissioner may revoke any license for any violation of the provisions of this Act, or any lawful rule of the Commissioner.

Sec. 4. It shall be the duty of every party licensed hereunder to keep and maintain an office, at which office a complete record of the business transacted shall be kept; there shall be kept a substantial book in the form prescribed by the Commissioner of Labor Statistics, in which shall be entered the age, sex, nativity, trade or occupation, name and address of every person or laborer hired or emigrant solicited to be employed beyond the limits of this State and where such person or emigrant was directed to go, and the address of such person or emigrant if known. Such licensed party shall also enter in a register the name and address of every person who shall make application for laborers or emigrants to be employed beyond the limits of this State. All the books and registers, correspondence, memoranda, papers and records of every party licensed hereunder shall be subject to examination at any time by the Commissioner of Labor Statistics, his deputies and inspectors. The fees charged for hiring laborers or soliciting emigrants in this State for employment beyond the limits of this State shall not exceed two dollars (\$2.00) for each such person or emigrant; and the fees charged any person who desires to find labor beyond the State or to emigrate beyond the boundaries of the State for the purpose of obtaining employment shall not exceed two dollars (\$2.00) for each such person, and in no event shall more than two dollars (\$2.00) be collected from any one for the same person who seeks employment beyond the State as a laborer or emigrant. Provided that in all cases where the applicant who seeks employment beyond the State does not obtain such employment through the party licensed hereunder, then such party must return all fees collected from such applicant within thirty days after same has been collected.

Sec. 5. It shall be the duty of the Commissioner of Labor Statistics to enforce this Act, and when any viola-

tion thereof comes to his knowledge it shall be his duty to institute criminal proceedings for the enforcement of its penalties before any court of competent jurisdiction. He may make such rules and regulations for the enforcement of this Act, not inconsistent herewith, as to him may seem proper.

Sec. 6. Any person engaging in the business governed and regulated by this Act, except in accordance with the provisions hereof and except he be licensed, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than three hundred dollars for each such offense, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment.

Sec. 7. All license fees collected under this Act by the Commissioner of Labor Statistics shall be paid directly into the State Treasury.

Sec. 8. All appropriations heretofore made for the support and maintenance of the Department of the Commissioner of Labor Statistics may be used in the enforcement and administration of this Act.

Sec. 9. There being no adequate laws on the statutes of this State regulating the business of those engaged in hiring laborers or soliciting emigrants in this State to be employed beyond the limits of same, and there being a great abuse and many injustices arising out of such occupation at the present time, creates an emergency and an imperative public necessity which requires that the constitutional rule providing that bills shall be read on three several days in each house be suspended, and said rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

EIGHTH DAY.

Senate Chamber,
Austin, Texas,
Tuesday, Sept. 11, 1917.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.

Bailey.